

SECTIONS.

37. Recognized agents—
 persons holding powers-of-attorney from parties out of jurisdiction :
 certificated mukhtárs :
 persons carrying on trade or business for parties out of jurisdiction :
 Recognized agents in Panjáb, Oudh and Central Provinces.
38. Service of process on recognized agent.
39. Appointment of pleader.
40. Service of process on pleader.
41. Agent to receive process.
 His appointment to be in writing and to be filed in Court.

CHAPTER IV.

OF THE FRAME OF THE SUIT.

42. Suit how to be framed.
43. Suit to include whole claim.
 Relinquishment of part of claim.
 Omission to sue for one of several remedies.
44. Only certain claims to be joined with suit for recovery of land.
 Claims by or against executor, administrator or heir.
45. Plaintiff may join several causes of action.
 Court may order separation.
46. Defendant may apply to confine suit.
47. Court on hearing application may exclude some causes and order amendment.

CHAPTER V.

OF THE INSTITUTION OF SUITS.

48. Suits to be commenced by plaint.
49. Language of plaint.
50. Particulars to be contained in plaint :
 in money-suits :
 where plaintiff sues as representative.
 Defendant's interest and liability to be shewn.
 Grounds of exemption from limitation-law.
51. Plaints to be signed and verified.
52. Contents of verification.
 Verification to be signed and attested.
53. When plaint may be rejected, returned for amendment or amended.
 Proviso.
 Attestation of amendment.
54. When plaint shall be rejected.
55. Procedure on rejecting plaint.
56. When rejection of plaint does not preclude presentation of fresh plaint.

SECTIONS.

- 57. When plaint shall be returned to be presented to proper Court.
Procedure on returning plaint.
- 58. Procedure on admitting plaint.
Concise statements.
Register of suits.
- 59. Production of document on which plaintiff sues.
Delivery of document or copy.
List of other documents.
- 60. Statement in case of documents not in his possession or power.
- 61. Suits on lost negotiable instruments.
- 62. Production of shop-book.
Original entry to be marked and returned.
- 63. Inadmissibility of document not produced when plaint filed.

CHAPTER VI.

OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of Summons.

- 61. Summons.
- 65. Copy or statement annexed to summons.
- 66. Court may order defendant or plaintiff to appear in person.
- 67. No party to be ordered to appear in person unless resident within 50
or, where there is railway, 200 miles.
- 68. Summons to be either to settle issues or for final disposal.
- 69. Fixing day for appearance of defendant.
- 70. Summons to order defendant to produce documents required by plaintiff or relied on by defendant.
- 71. On issue of summons for final disposal, defendant to be directed to produce his witnesses.

Service of Summons.

- 72. Delivery of summons for service.
- 73. Mode of service.
- 74. Service on several defendants.
- 75. Service to be on defendant in person, when practicable, or on his agent.
- 76. Service on agent by whom defendant carries on business.
- 77. Service on agent in charge, in suits for immoveable property.
- 78. When service may be on male member of defendant's family.
- 79. Person served to sign acknowledgment.
- 80. Procedure when defendant refuses to accept service, or cannot be found.
- 81. Endorsement of time and manner of service.
- 82. Examination of serving-officer.
Substituted service.
- 83. Effect of substituted service.

SECTIONS.

- 84. When service substituted, time for appearance to be fixed.
- 85. Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.
- 86. Service within Presidency-towns and Rangoon, of process issued by Provincial Courts.
- 87. Service on defendant in jail.
- 88. Procedure if jail be in different district.
- 89. Service when defendant resides out of British India and has no agent to accept service.
- 90. Service through British Resident or Agent of Government.
- 91. Substitution of letter for summons.
- 92. Mode of sending such letter.

Service of Process.

- 93. Process to be served at expense of party issuing.
Costs of service.
- 94. Notices and orders in writing how served.

Postage.

- 95. Postage.

CHAPTER VII.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

- 96. Parties to appear on day fixed in summons for defendant to appear and answer.
- 97. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay fee for issuing.
Proviso.
- 98. If neither party appears, suit to be dismissed.
- 99. In such case plaintiff may bring fresh suit;
or Court may restore suit to its file.
- 99A. Dismissal of suit where plaintiff, after summons returned unserved, fails for a year to apply for fresh summons.
- 100. Procedure if only plaintiff appears,
when summons duly served,
when summons not duly served,
when summons served, but not in due time.
- 101. Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-appearance.
- 102. Procedure where defendant only appears.
- 103. Decree against plaintiff by default bars fresh suit.
- 104. Procedure where defendant residing out of British India does not appear.
- 105. Procedure in case of non-attendance of one or more of several plaintiffs.

SECTIONS.

- 106. Procedure in case of non-attendance of one or more of several defendants.
- 107. Consequence of non-attendance, without sufficient cause shewn, of party ordered to appear in person.

Of setting aside Decrees ex parte.

- 108. Setting aside decree *ex parte* against defendant.
- 109. No decree to be set aside without notice to opposite party.

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

- 110. Written statements.
- 111. Particulars of set-off to be given in written statement.
 - Inquiry.
 - Effect of set-off.
- 112. No written statement to be received after first hearing.
 - Provisos.
- 113. Procedure when party fails to present written statement called for by Court.
- 114. Frame of written statements.
- 115. Written statements to be signed and verified.
- 116. Power of Court as to argumentative, prolix or irrelevant written statements.
 - Attestation of amendments.
 - Effect of rejection.

CHAPTER IX.

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

- 117. Ascertainment whether allegations in plaint and written statements admitted or denied.
- 118. Oral examination of party, or companion of himself or his pleader.
- 119. Substance of examination to be written.
- 120. Consequence of refusal or inability of pleader to answer.

CHAPTER X.OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING
AND RETURN OF DOCUMENTS.

- 121. Power to deliver interrogatories.
- 122. Service of interrogatories.

SECTIONS.

123. Inquiry into propriety of exhibiting interrogatories.
124. Service of interrogatories on officer of Corporation or Company.
125. Power to refuse to answer interrogatories as irrelevant, &c.
126. Time for filing affidavit in answer.
127. Procedure where party omits to answer sufficiently.
128. Power to demand admission of genuineness of documents.
129. Power to order discovery of document.
Affidavit in answer to such order.
130. Power to order production of documents during suit.
131. Notice to produce for inspection documents referred to in plaint, &c.
Consequence of non-compliance with such notice.
132. Party receiving such notice to deliver notice when and where inspection may be had.
133. Application for order of inspection.
134. Application to be founded on affidavit.
135. Power to order issue or question on which right to discovery depends to be first determined.
136. Consequences of failure to answer or give inspection.
137. Court may send for papers from its own records or from other Courts.
138. Documentary evidence to be in readiness at first hearing.
139. Effect of non-production of documents.
140. Documents to be received by Court.
Rejection of irrelevant or inadmissible documents.
141. No documents to be placed on record unless proved.
Proved documents to be marked and filed.
Entries in shop-books.
142. Rejected documents to be marked,
and returned.
143. Court may order any document to be impounded.
144. When document admitted in evidence may be returned.
When document may be returned before time limited.
Certain documents not to be returned.
Receipt to be given for returned document.
145. Provisions as to documents applied to material objects.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

146. Framing of issues.
147. Allegations from which issues may be framed.
148. Court may examine witnesses or documents before framing issues.
149. Power to amend, add and strike out issues.
150. Questions of fact or law may by agreement be stated in form of issue.
151. Court, if satisfied that agreement was executed in good faith, may pronounce judgment.

CHAPTER XII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

SECTIONS.

- 152. If parties not at issue on any question of law or fact.
 - 153. If one of several defendants be not at issue with plaintiff.
 - 154. If parties at issue on questions of law or fact,
Court may determine issue,
and pronounce judgment.
 - 155. If either party fails to produce his evidence, Court may pronounce judgment, or adjourn suit.
-

CHAPTER XIII.

OF ADJOURNMENTS.

- 156. Court may grant time, and adjourn hearing.
Costs of adjournment.
 - 157. Procedure if parties fail to appear on day fixed.
 - 158. Court may proceed notwithstanding either party fails to produce evidence, &c.
-

CHAPTER XIV.

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

- 159. Summons to attend to give evidence or produce documents.
- 160. Expenses of witnesses to be paid into Court on applying for summons.
Scale of expenses.
- 161. Tender of expenses to witness.
- 162. Procedure where insufficient sum paid in.
Expenses if witness detained more than one day.
- 163. Time, place and purpose of attendance to be specified in summons.
- 164. Summons to produce document.
- 165. Power to require persons present in court to give evidence.
- 166. Summons how served.
- 167. Time for serving summons.
- 168. Attachment of property of absconding witness.
- 169. If witness appears, attachment may be withdrawn.
- 170. Procedure if witness fails to appear.
- 171. Court may of its own accord summon as witnesses strangers to suit.
- 172. Duty of persons summoned to give evidence or produce document.
- 173. When they may depart.
- 174. Consequences of failure to comply with summons.
Procedure when witness apprehended cannot give evidence or produce document.
- 175. Procedure when witness absconds.

SECTIONS.

- 176. Persons bound to attend in person.
 - 177. Consequence of refusal of party to give evidence when called on by Court.
 - 178. Rules as to witnesses to apply to parties summoned.
-

CHAPTER XV.

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

- 179. Statement and production of evidence by party having right to begin.
Rules as to right to begin.
 - 180. Statement and production of evidence by other party.
Reply by party beginning.
 - 181. Witnesses to be examined in open Court.
 - 182. How evidence shall be taken in appealable cases.
 - 183. When deposition to be interpreted.
 - 184. Memorandum when evidence not taken down by Judge.
 - 185. When evidence may be taken in English.
 - 186. Any particular question and answer may be taken down..
 - 187. Questions objected to and allowed by Court.
 - 188. Remarks on demeanour of witnesses.
 - 189. Memorandum of evidence in unappealable cases.
 - 190. Judge unable to make such memorandum to record reason of his inability.
 - 191. Power to deal with evidence taken down by Judge removed before conclusion of suit.
 - 192. Power to examine witness immediately.
 - 193. Court may recall and examine witness.
-

CHAPTER XVI.

OF AFFIDAVITS.

- 194. Power to order any point to be proved by affidavit.
 - 195. Power to order attendance of declarant for cross-examination.
 - 196. Matters to which affidavits shall be confined.
 - 197. Oath of declarant by whom to be administered.
-

CHAPTER XVII.

OF JUDGMENT AND DECREE.

- 198. Judgment when pronounced.
- 199. Power to pronounce judgment written by Judge's predecessor.

SECTIONS.

- 200. Language of judgment.
- 201. Translation of judgment.
- 202. Judgment to be dated and signed.
- 203. Judgment of Small Cause Courts.
Judgments of other Courts.
- 204. Court to state its decision on each issue.
Exception.
- 205. Date of decree.
- 206. Contents of decree.
Power to amend decree.
- 207. Decree for recovery of immoveable property.
- 208. Decree for delivery of moveable property.
- 209. In suits for money, decree may order certain interest to be paid on
principal sum adjudged,
- 210. Decree may direct payment by instalments.
Order, after decree, for payment by instalments.
- 211. In suits for land, Court may decree payment of mesne profits with
interest.
- 212. Court may determine amount of mesne profits prior to suit, or may
reserve inquiry.
- 213. Administration-suit.
- 214. Suit to enforce right of pre-emption.
- 215. Suit for dissolution of partnership.
- 215A. Suit for account between principal and agent.
- 216. Decree when set-off is allowed.
Effect of decree as to sum awarded to defendant.
- 217. Certified copies of judgment and decree to be furnished.

CHAPTER XVIII.

OF COSTS.

- 218. Costs of applications.
- 219. Judgment to direct by whom costs to be paid.
- 220. Power of Court as to costs.
- 221. Costs may be set-off against sum admitted or found to be due.
- 222. Interest on costs.
Payment of costs out of subject-matter.

CHAPTER XIX.

OF THE EXECUTION OF DECREES.

A.—Of the Court by which Decrees may be executed.

- 223. Court by which decree may be executed.

SECTIONS.

- 224. Procedure when Court desires that its own decree shall be executed by another Court.
- 225. Court receiving copies of decree, &c., to file same without proof.
- 226. Execution of decree or order by Court to which it is sent.
- 227. Execution by High Court of decree transmitted by other Court.
- 228. Powers of Court in executing transmitted decree.
Appeal from orders in executing such decrees.
- 229. Decrees of Courts established by Government of India in Native States.

B.—Of Application for Execution.

- 230. Application for execution.
- 231. Application by joint decree-holder.
- 232. Application by transferee of decree.
- 233. Transferee to hold subject to equities enforceable against original holder.
- 234. If judgment-debtor die before execution application may be made against his representative.
- 235. Contents of application for execution of decree.
- 236. Application for attachment of moveable property to be accompanied with inventory.
- 237. Further particulars when application is for attachment of immoveable property.
- 238. When application must be accompanied by extract from Collector's register.

C.—Of staying Execution.

- 239. When Court may stay execution.
- 240. Power to require security from, or impose conditions upon, judgment debtor.
- 241. Liability of judgment-debtor discharged to be retaken.
- 242. Order of Court which passed decree or of appellate Court to be binding upon Court applied to.
- 243. Stay of execution pending suit between decree-holder and judgment-debtor.

D.—Questions for Court executing Decree.

- 244. Questions to be decided by Court executing decree.

E.—Of the Mode of executing Decrees.

- 245. Procedure on receiving application for execution of decree.
Procedure on admitting application.
- 246. Cross-decrees.
- 247. Cross-claims under same decree.
- 248. Notice to shew cause why decree should not be executed.
Proviso.
- 249. Procedure after issue of notice.
- 250. Warrant when to issue.

SECTIONS.

- 306 Deposit by purchaser of immoveable property.
- 307. Time for payment in full.
- 308. Procedure in default of payment.
- 309 Notification on re-sale of immoveable property.
- 310. Co-sharer of share of undivided estate sold in execution to have preference in bidding.
- 311. Application to set aside sale of land on ground of irregularity.
- 312. Effect of objection being disallowed, and of its being allowed.
- 313. Application to set aside sale on ground of judgment-debtor having no saleable interest.
- 314. Confirmation of sale.
- 315. If sale set aside, price to be returned to purchaser.
- 316. Certificate to purchaser of immoveable property.
- 317. Bar to suit against purchaser buying-bénámí.
- 318. Delivery of immoveable property in occupancy of judgment-debtor.
- 319. Delivery of immoveable property in occupancy of tenant.
- 320. Power to prescribe rules for transferring to Collector execution of certain decrees.
Power to prescribe rules as to transmission, execution and re-transmission of decrees.
- 321. Power of Collector when execution of decree is so transferred.
- 322. Procedure of Collector when execution of decree so transferred.
- 322A. Notice to be given to decree-holders and to persons having claims on property.
- 322B. Amount of money-decrees to be ascertained, and immoveable property available for their satisfaction.
- 322C. When District Court may issue notices and hold inquiry.
- 322D. Effect of decision of Court as to dispute arising under section 322B or 322C.
- 323 Scheme for liquidation of money-decrees.
- 324. Recovery of balance, if any, after letting or management.
- 324A. Collector to render accounts to civil Court.
Application of balance.
- 325. Sales how to be conducted.
- 325A. Restrictions as to alienation by judgment-debtor or his representative, and prosecution of remedies by decree-holders.
- 325B. Provision where property is in several districts.
- 325C. Powers of Collector to compel attendance of parties and witnesses and production of documents.
- 326. When Court may authorize Collector to stay public sale of land.
- 327. Local rules as to sales of land in execution of decrees for money.

H.—Of Resistance to Execution.

- 328. Procedure in case of obstruction to execution of decree.
- 329. Procedure in case of obstruction by judgment-debtor or at his instigation.
- 330. Procedure when obstruction continues.
- 331. Procedure in case of obstruction by claimant in good faith, other than judgment-debtor.

SECTIONS.

- 332. Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.
- 333. Transfer of property by judgment-debtor after institution of suit.
- 334. Resisting or obstructing purchaser in obtaining possession of immoveable property.
- 335. Obstruction by claimant other than judgment-debtor.

I.—Of Arrest and Imprisonment.

- 336. Place of judgment-debtor's imprisonment.
Proviso.
- 337. Warrant for arrest to direct judgment-debtor to be brought up.
- 338. Scales of subsistence-allowances.
- 339. Judgment-debtor's subsistence-money.
- 340. Subsistence-money to be costs in suit.
- 341. Release of judgment-debtor.
- 342. Imprisonment not to exceed six months;
when not to exceed six weeks.
- 343. Endorsement on warrant.

CHAPTER XX.

OF INSOLVENT JUDGMENT-DEBTORS.

- 344. Power to apply for declaration of insolvency.
- 345. Contents of application.
- 346. Subscription and verification of application.
- 347. Service of copy of application and notice.
- 348. Power to serve other creditors.
- 349. Powers of Court as to judgment-debtor under arrest.
- 350. Procedure at hearing.
- 351. Declaration of insolvency and appointment of Receiver.
- 352. Creditors to prove their debts.
Schedule to be framed.
- 353. Applications by unscheduled creditors.
- 354. Effect of order appointing Receiver.
- 355. Receiver to give security and collect assets.
Discharge of insolvent.
- 356. Duty of Receiver.
His right to remuneration.
Delivery of surplus.
- 357. Effect of discharge.
- 358. Declaration that insolvent is discharged from liability.
- 359. Procedure in case of dishonest applicant.
- 360. Investment of other Courts with powers of District Courts.
Transfer of cases.

PART II.

OF INCIDENTAL PROCEEDINGS.

CHAPTER XXI.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

SECTIONS.

- 361. No abatement by party's death, if right to sue survives.
 - 362. Procedure in case of death of one of several plaintiffs or defendants, if right to sue survives.
 - 363. Procedure in case of death of one of several plaintiffs where right to sue survives to survivors and representative of deceased.
 - 364. Procedure where no application made by representative of deceased plaintiff.
 - 365. Procedure in case of death of sole, or sole surviving, plaintiff.
 - 366. Abatement where no application by representative of deceased plaintiff.
 - 367. Procedure in case of dispute as to representative of deceased plaintiff.
 - 368. Procedure in case of death of one of several defendants, or of sole or sole surviving defendant.
 - 369. Suit not abated by marriage of female party.
 - 370. When plaintiff's bankruptcy or insolvency bars suit.
Procedure when assignee fails to continue suit or give security.
 - 371. Effect of abatement or dismissal.
Application to set aside abatement or dismissal.
 - 372. Procedure in case of assignment pending suit.
-

CHAPTER XXII.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

- 373. Power to allow plaintiff to withdraw with liberty to bring fresh suit.
 - 374. Limitation-law not affected by first suit.
 - 375. Compromise of suits.
-

CHAPTER XXIII.

OF PAYMENT INTO COURT.

- 376. Deposit by defendant of amount in satisfaction of claim.
- 377. Notice of deposit.
- 378. Interest on deposit not allowed to plaintiff after notice.
- 379. Procedure where plaintiff accepts deposit as satisfaction in part.
Procedure where he accepts it as satisfaction in full.

CHAPTER XXIV.

OF REQUIRING SECURITY FOR COSTS.

SECTIONS.

- 380. When security for costs may be required from plaintiff at any stage of suit.
- 381. Effect of failure to furnish security.
- 382. Residence out of British India.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

- 383. Cases in which Court may issue commission to examine witness.
- 384. Order for commission.
- 385. When witness resides within Court's jurisdiction.
- 386. Persons for whose examination commission may issue.
- 387. Commission to examine witness not within British India.
- 388. Court to examine witness pursuant to commission.
- 389. Return of commission with depositions of witnesses.
- 390. When depositions may be read in evidence.
- 391. Provisions as to execution and return of commissions to apply to commissions issued by foreign Courts.

B.—Commissions for local Investigations.

- 392. Commission to make local investigation.
- 393. Procedure of Commissioner.
Report and depositions to be evidence in suit.
Commissioner may be examined in person.

C.—Commissions to examine Accounts.

- 394. Commission to examine or adjust accounts.
- 395. Court to give Commissioner necessary instructions.
Court to receive Commissioner's proceedings or direct further enquiry.

D.—Commission to make Partition.

- 396. Commission to make partition of non-revenue-paying immoveable property.
Procedure of Commissioners.

E.—General Provisions.

- 397. Expenses of commission to be paid into Court.
- 398. Powers of Commissioners.
- 399. Attendance, examination and punishment of witnesses before Commissioner.
- 400. Court to direct parties to appear before Commissioner.
Procedure *ex parte*.

PART III.

OF SUITS IN PARTICULAR CASES.

CHAPTER XXVI.

SUITS BY PAUPERS.

SECTIONS.

- 401. Suits may be brought *in forma pauperis*.
 - 402. What suits excepted
 - 403. Application to be in writing.
Contents of application.
 - 404. Presentation of application.
 - 405. Rejection of application.
 - 406. Examination of applicant.
If presented by agent, Court may order applicant to be examined by commission.
 - 407. Rejection of application.
 - 408. Notice of day for receiving evidence of applicant's pauperism.
 - 409. Procedure at hearing.
 - 410. Procedure if application admitted.
 - 411. Costs when pauper succeeds.
Recovery of court-fees.
 - 412. Procedure when pauper fails.
 - 413. Refusal to allow applicant to sue as pauper to bar subsequent application of like nature.
 - 414. Dispaupering.
 - 415. Costs.
-

CHAPTER XXVII.

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

- 416. Suits by or against Secretary of State in Council.
- 417. Persons authorized to act for Government.
- 418. Plaints in suits by Secretary of State in Council.
- 419. Agent of Government to receive process.
- 420. Appearance and answer by Secretary of State in Council.
- 421. Attendance of person able to answer questions relating to suit against Government.
- 422. Service on public officers.
- 423. Extension of time to enable officer to make reference to Government.
- 424. Notice previous to suing Secretary of State in Council or public officer.
- 425. Arrests in such suits.
- 426. Application where Government undertakes defence.
- 427. Procedure where no such application made.
Defendant not liable to arrest before judgment.

SECTIONS.

- 428. Exemption of public officers from personal appearance.
 - 429. Procedure where decree against Government or public officer.
-

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

- 430. When aliens may sue.
 - 431. When foreign State may sue.
 - 432. Persons specially appointed by Government to prosecute or defend for Princes or Chiefs.
 - 433. Suits against Sovereign Princes, &c.
Sovereign Princes, &c., exempt from arrest.
When their property may be attached.
 - 434. Execution in British India of decrees of Courts of Native States.
-

CHAPTER XXIX.

SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

- 435. Subscription and verification of plaint.
 - 436. Service on Corporation or Company.
-

CHAPTER XXX.

SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

- 437. Representation of beneficiaries in suits concerning property vested in trustees, &c.
 - 438. Joinder of executors and administrators.
 - 439. Husband of married executrix not to join.
-

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

- 440. Minor must sue by next friend.
Costs.
- 441. Applications to be made by next friend or guardian *ad litem*.
- 442. Plaint filed without next friend to be taken off file.
Costs.
- 443. Guardian *ad litem* to be appointed by Court.
- 444. Order obtained without next friend or guardian may be discharged.
Costs.

SECTIONS.

- 445. Who may be next friend.
- 446. Removal of next friend.
- 447. Retirement of next friend.
Application for appointment of a new next friend.
- 448. Stay of proceedings on death or removal of next friend.
- 449. Application for appointment of new next friend.
- 450. Course to be followed by minor plaintiff or applicant on coming of age.
- 451. Where he elects to proceed.
- 452. Where he elects to abandon.
Costs.
- 453. Making and proving applications under sections 451 and 452.
- 454. When minor co-plaintiff coming of age desires to repudiate suit.
Costs.
- 455. When suit unreasonable or improper.
Costs.
- 456. Petition for appointment of guardian *ad litem*.
- 457. Who may be guardian *ad litem*.
- 458. Guardian neglecting his duty may be removed.
Costs.
- 459. Appointment in place of guardian dying *pendente lite*.
- 460. Guardian *ad litem* of minor representative of deceased judgment-debtor.
- 461. Before decree, next friend or guardian *ad litem* not to receive money without leave of Court and giving security.
- 462. Next friend or guardian *ad litem* not to compromise without leave of Court.
Compromise without leave voidable
- 463. Application of sections 410 to 462 to persons of unsound mind.
- 464. Wards of Court.

CHAPTER XXXII.

SUITS BY AND AGAINST MILITARY MEN.

- 465. Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.
- 466. Person so authorized may act personally or appoint pleader.
- 467. Service on person so authorized, or on his pleader, to be good service.
- 468. Service on officers and soldiers.
- 469. Execution of warrant of arrest in cantonments, &c.

CHAPTER XXXIII.

INTERPLEADER.

- 470. When interpleader-suit may be instituted
- 471. Plead in such suit.

SECTIONS.

- 472. Payment of thing claimed into Court.
- 473. Procedure at first hearing.
- 474. When agents and tenants may institute interpleader-suits.
- 475. Charge of plaintiff's costs.
- 476. Procedure where defendant is suing stake-holder.
Costs.

PART IV. PROVISIONAL REMEDIES.

CHAPTER XXXIV

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

- 477. When plaintiff may apply that security be taken.
- 478. Order to bring up defendant to show cause why he should not give security.
- 479. If defendant fail to show cause, Court may order him to make deposit or give security.
- 480. Procedure in case of application by surety to be discharged.
- 481. Procedure where defendant fails to give security or find fresh security.
- 482. Subsistence of defendants arrested.

B.—Attachment before Judgment.

- 483. Application before judgment for security from defendant to satisfy decree, and in default for attachment of property.
Contents of application.
- 484. Court may call on defendant to furnish security or show cause.
- 485. Attachment if cause not shown or security not furnished.
Withdrawal of attachment.
- 486. Mode of making attachment.
- 487. Investigation of claims to property attached before judgment.
- 488. Removal of attachment when security furnished or suit dismissed.
- 489. Attachment not to affect rights of strangers, or bar decree-holder from applying for sale.
- 490. Property attached under chapter not to be re-attached in execution of decree.

C.—Compensation for improper Arrests or Attachments.

- 491. Compensation for obtaining arrest or attachment on insufficient grounds.
Proviso.

CHAPTER XXXV.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.

SECTIONS.

- 492. Cases in which temporary injunction may be granted.
- 493. Injunction to restrain repetition or continuance of breach.
- 494. Before granting injunction, Court to direct notice to opposite party.
- 495. Injunction to Corporation binding on its members and officers.
- 496. Order for injunction may be discharged, varied or set aside.
- 497. Compensation to defendant for issue of injunction on insufficient grounds.
Proviso.

B.—Interlocutory Orders.

- 498. Power to order interim sale of perishable articles.
- 499. Power to make order for detention, &c., of subject-matter, and to authorize entry, taking of samples and experiments.
- 500. Application for such orders to be after notice.
- 501. When party may be put in immediate possession of land the subject of suit.
- 502. Deposit of money, &c., in Court.

CHAPTER XXXVI.

APPOINTMENT OF RECEIVERS.

- 503. Power of Court to appoint Receivers.
Receiver's liabilities.
- 504. When Collector may be appointed Receiver.
- 505. Courts empowered under this chapter.

PART V.

OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.

REFERENCE TO ARBITRATION.

- 506. Parties to suit may apply for order of reference.
- 507. Nomination of arbitrator.
When Court to nominate arbitrator.
- 508. Order of reference.

SECTIONS.

- 509. When reference is to two or more, order to provide for difference of opinion.
- 510. Death, incapacity, &c., of arbitrators or umpire.
- 511. Appointment of umpire by Court.
- 512. Powers of arbitrator or umpire appointed under sections 509, 510, 511.
- 513. Summoning witnesses.
Punishment for default, &c.
- 514. Extension of time for making award.
Supersession of arbitration.
- 515. When umpire may arbitrate in lieu of arbitrators.
- 516. Award to be signed and filed.
- 517. Arbitrators or umpire may state special case.
- 518. Court may, on application, modify or correct award in certain cases.
- 519. Order as to costs of arbitration.
- 520. When award or matter referred to arbitration may be remitted.
- 521. Grounds for setting aside award.
- 522. Judgment to be according to award.
Decree to follow.
- 523. Agreement to refer to arbitration may be filed in Court.
Application to be numbered and registered.
Notice to show cause against filing.
- 524. Provisions of chapter applicable to proceedings under order of reference.
- 525. Filing award in matter referred to arbitration without intervention of Court.
Application to be numbered and registered.
Notice to parties to arbitration.
- 526. Filing and enforcement of such award.

CHAPTER XXXVIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

- 527. Power to state case for Court's opinion.
- 528. When value of subject-matter must be stated.
- 529. Agreement to be filed and numbered as suit.
- 530. Parties to be subject to Court's jurisdiction.
- 531. Hearing and disposal of case.

CHAPTER XXXIX.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

- 532. Institution of summary suits upon bills of exchange, &c.
Payment into Court of sum mentioned in summons.
- 533. Defendant showing defence on merits to have leave to appear.

SECTIONS.

- 534. Power to set aside decree.
- 535. Power to order bill, &c., to be deposited with officer of Court.
- 536. Recovery of cost of noting non-acceptance of dishonoured bill or note.
- 537. Procedure in suits under chapter.
- 538. Application of chapter.

CHAPTER XL.

OF SUITS RELATING TO PUBLIC CHARITIES.

- 539. When suit relating to public charities may be brought.

PART VI.

OF APPEALS.

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

- 540. Appeal to lie from all original decrees, except when expressly prohibited.
- 541. Form of appeal.
What to accompany memorandum.
Contents of memorandum.
- 542. Appellant confined to grounds set out.
- 543. Rejection or amendment of memorandum.
- 544. One of several plaintiffs or defendants may obtain reversal of whole decree if it proceed on ground common to all.

Of staying and executing Decrees under Appeal.

- 545. Execution of decree not stayed solely by reason of appeal.
Stay of execution of appealable decree before time for appealing has expired.
- 546. Security in case of order for execution of decree appealed against.
- 547. No such security to be required from Government or public officers.

Of Procedure in Appeal from Decrees.

- 548. Registry of memorandum of appeal.
Register of appeals.
- 549. Appellate Court may require appellant to give security for costs.
When appellant resides out of British India.
- 550. Appellate Court to give notice to Court whose decree appealed against.
Transmission of papers to Appellate Court.
Copies of exhibits in Court whose decree appealed against.

SECTIONS.

- 551. Power to confirm decision of lower Court without sending it notice.
- 552. Day for hearing appeal.
- 553. Publication and service of notice of day for hearing appeal.
Appellate Court may itself cause notice to be served.
- 554. Contents of notice.

Procedure on Hearing.

- 555. Right to begin.
- 556. Dismissal of appeal for appellant's default.
Hearing appeal *ex parte*.
- 557. Dismissal of appeal where notice not served in consequence of appellant's failure to deposit cost.
Proviso.
- 558. Re-admission of appeal dismissed for default.
- 559. Power to adjourn hearing, and direct persons appearing interested to be made respondents.
- 560. Re-hearing on application of respondent against whom *ex parte* decree made.
- 561. Upon hearing, respondent may object to decree as if he had preferred separate appeal.
Form of notice, and provisions applicable thereto.
- 562. Remand of case by Appellate Court.
- 563. When further evidence barred.
- 564. Limit to remand.
- 565. When evidence on record sufficient, Appellate Court shall determine case finally.
- 566. When Appellate Court may frame issues and refer them for trial to Court whose decree appealed against.
- 567. Finding and evidence to be put on record.
Objections to finding.
Determination of appeal.
- 568. Production of additional evidence in Appellate Court.
- 569. Mode of taking additional evidence.
- 570. Points to be defined and recorded.

Of the Judgment in Appeal.

- 571. Judgment when and where pronounced.
- 572. Language of judgment.
- 573. Translation of judgment.
- 574. Contents of judgment.
Date and signature.
- 575. Decision when appeal heard by two or more Judges.
- 576. Dissent to be recorded.
- 577. What judgment may direct.
- 578. No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

Of the Decree in Appeal.

- 579. Date and contents of decree.
Judge dissenting from judgment need not sign decree.

SECTIONS.

- 580. Copies of judgment and decree to be furnished to parties.
 - 581. Certified copy of decree to be sent to Court whose decree appealed against.
 - 582. Appellate Court to have same powers as Courts of original jurisdiction.
 - 583. Execution of decree of Appellate Court.
-

CHAPTER XLII.

OF APPEALS FROM APPELLATE DECREES.

- 584. Second appeals to High Court.
Grounds of second appeal.
 - 585. Second appeal on no other grounds.
 - 586. No second appeal in certain suits.
 - 587. Provisions as to second appeal.
-

CHAPTER XLIII.

OF APPEALS FROM ORDERS.

- 588. Orders appealable.
 - 589. What Courts to hear appeals.
 - 590. Procedure in appeals from orders.
 - 591. No other appeal from orders; but error therein may be set forth in memorandum of appeal against decree.
-

CHAPTER XLIV.

OF PAUPER APPEALS

- 592. Who may appeal as pauper.
Procedure on application for admission of appeal.
 - 593. Inquiry into pauperism.
Proviso.
-

CHAPTER XLV.

OF APPEALS TO THE QUEEN IN COUNCIL.

- 594. 'Decree' defined.
- 595. When appeals lie to Queen in Council.
- 596. Value of subject-matter.
- 597. Bar of certain appeals.

SECTIONS.

- 598. Application to Court whose decree complained of.
- 599. Time within which application must be made.
- 600. Certificate as to value or fitness.
- 601. Effect of refusal of certificate.
- 602. Security and deposit required on grant of certificate.
- 603. Admission of appeal and procedure thereon.
- 604. Revocation of acceptance of security.
- 605. Power to order further security or payment.
- 606. Effect of failure to comply with order.
- 607. Refund of balance of deposit.
- 608. Powers of Court pending appeal.
- 609. Increase of security found inadequate.
- 610. Procedure to enforce orders of Queen in Council.
- 611. Appeal against order relating to execution.
- 612. Power to make rules.
Publication of rules.
- 613. Legalization of existing rules.
- 614. Recorder of Rangoon.
- 615. Construction of Bengal Regulation III of 1828, section 4, clause 5.
- 616. Saving of Her Majesty's pleasure, and of rules for conduct of business before Judicial Committee.

PART VII.

CHAPTER XLVI.

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

- 617. Reference of question to High Court.
- 618. Court may pass decree contingent upon opinion of High Court.
- 619. Judgment of High Court to be transmitted, and case disposed of accordingly.
- 620. Costs of reference to High Court.
- 621. Power to alter, &c., decrees of Court making reference.
- 622. Power to call for record of cases not appealable to High Court.

PART VIII.

CHAPTER XLVII.

OF REVIEW OF JUDGMENT.

- 623. Application for review of judgment.
- 624. To whom applications for review may be made.

SECTIONS.

- 625. Form of applications for review.
- 626. Application when rejected.
Application when granted.
Proviso.
- 627. Application for review in Court consisting of two or more Judges.
- 628. Application when rejected.
- 629. Order of rejection final.
Objections to admission.
- 630. Registry of application granted, and order for re-hearing

PART IX.

CHAPTER XLVIII.**SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.**

- 631. Chapter to apply only to certain High Courts.
- 632. Application of Code to High Courts.
- 633. High Court to record judgments according to its own rules.
- 634. Power to order execution of decree before ascertainment of costs, and execution for costs subsequently.
- 635. Unauthorized persons not to address Court.
- 636. Who may serve process of High Court.
- 637. Non-judicial acts may be done by Registrar.
- 638. Sections not applying to High Court in original civil jurisdiction.
Code not to affect High Court in exercise of insolvent jurisdiction.
- 639. Power to frame forms.

PART X.

CHAPTER XLIX.**MISCELLANEOUS.**

- 640. Exemption of certain women from personal appearance.
- 641. Local Government may exempt certain persons from personal appearance.
Lists of names of persons exempted to be kept in Courts.
Costs of commission rendered necessary by claiming privilege.
- 642. Persons exempt from arrest under civil process.
- 643. Procedure in case of certain offences
- 644. Use of forms in fourth schedule.
- 645. Language of subordinate Courts.

SECTIONS.

- 645A. Assessors in causes of salvage, &c.
 646. Power of Registrars of Small Cause Courts to state cases.
 647. Miscellaneous proceedings.
 Admission of affidavits as evidence.
 648. Procedure when person to be arrested or property to be attached is outside district.
 649. Rules applicable to all civil process for arrest, sale or payment.
 650. Application of rules as to witnesses.
 650A. Service of foreign summonses.
 651. Penalty for resisting apprehension or escaping from custody under Code or civil process.
 652. Power to make subsidiary rules of procedure.

THE FIRST SCHEDULE —Acts repealed.

THE SECOND SCHEDULE.—Chapters and sections of this Code extending to Provincial Courts of Small Causes.

THE THIRD SCHEDULE.—Bombay Enactments.

THE FOURTH SCHEDULE.—Forms of Pleadings and Decrees.

ACT No. XIV OF 1882.

Received the Governor General's assent on the 17th March, 1882.

An Act to consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature.^a

WHEREAS it is expedient to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature; It is hereby enacted as follows :—

Preamble.

PRELIMINARY.^b

1. This Act may be cited as “The Code of Civil Procedure”:
 and it shall come into force on the first day of June, 1882.

Short title.

Commence-
ment.

This section and section 3 extend to the whole of British India. The

Local extent.

^a For power to modify the Code in its application to suits between landlords and tenants in Bengal, after the Bengal Tenancy Act comes into operation, see Act VIII of 1885, section 143. For further modifications made by that Act, see footnotes further on.

^b Sections 1, 2, 3 and 5 extend to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Preliminary. Sec. 2.)

other sections extend to the whole of British India except the Scheduled Districts as defined in Act No. XIV of 1874.^a

XIV of 1874.

Interpreta-
tion-clause.

2. In this Act, unless there be something repugnant in the subject or context—

“chapter :”

“chapter” means a chapter of this Code :

“district :”

“district” means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction* (hereinafter called a “District Court”), and includes the local limits of the ordinary original civil jurisdiction of a High Court : every Court of a grade inferior to that of a District Court and every Court of Small Causes shall, for the purposes of this Code, be deemed to be subordinate to the High Court and the District Court :

“District
Court :”

“pleader :”

“pleader” means every person entitled to appear and plead for another in Court, and includes an advocate, a vakīl and an attorney of a High Court.:

^a The whole Code (except sections 1 and 3) has been extended to the following Scheduled Districts, namely :—

| | |
|---|---|
| Sindh | See Gazette of India, 3rd June, 1882, Part I, p. 217. |
| The Districts of Hazáribhū, Lohárdaga and Mámbhūm, the parganá of Dhálbhūm in the District of Singbhūm, and the Mahál of Angúl | Ditto ditto ditto p. 218. |
| Pargana Jaunsár Báwar in the Dehra Dun District, and the scheduled portion of the Mirzápur District | Ditto ditto ditto p. 217. |
| The Scheduled Districts of the Panjáb | Ditto ditto ditto p. 219. |
| *Coorg | Ditto ditto ditto p. 217. |
| †Ajmer and Merwára | Ditto ditto 29th July, 1882, Part I, p. 289. |
| The Districts of Kamrup, Nowgong, Darang, Sibságar, Lakhimpur, Goalpára (excluding the Eastern Dvārs), Silhat and Káchár (excluding the North Káchár Hills) | Ditto ditto 3rd June, 1882, Part I, p. 218. |
| The Cantonment of Morar | Ditto ditto 29th July, 1882, Part I, p. 289. |
| The whole Code (except sections 1, 3, ‡ 15, 19, 23, 24, 25 and 652‡) has been extended to the Jhānsí Division | Ditto ditto 3rd June, 1882, Part I, p. 217. |
| The whole Code (except sections 1 and 3 and so much thereof as authorizes the sale of immoveable property in execution of a decree, not being a decree directing the sale of such property) has been extended to the Scheduled Districts of the Central Provinces | Ditto ditto ditto p. 217. |
| As to the application of the Code to the Andaman and Nicobar Islands, see the Andamans and Nicobar Islands Regulation I of 1884, section 4. | |

* For modifications in the Code as in force in Coorg, see the Coorg Courts Regulations, II of 1881 and I of 1885, and section 3 of this Act.

† For modifications in the Code as in force in Ajmer and Merwára, see the Ajmer Courts Regulation, I of 1877, and section 3 of this Act.

‡ : The matters referred to in these sections are provided for in the Jhānsí Courts Act, XVIII of 1867.

“Government Pleader” includes also any officer appointed by the Local Government to perform all or any of the functions expressly imposed by this Code on the Government Pleader : “Government Pleader :”

“Collector” means every officer performing the duties of a Collector of land-revenue : “Collector :”

“decree” means the formal expression of an adjudication upon any right claimed, or defence set up, in a Civil Court, when such adjudication, so far as regards the Court expressing it, decides the suit or appeal. An order rejecting a plaint, or directing accounts to be taken, or determining any question mentioned or referred to in section 244 but not specified in section 588, is within this definition : an order specified in section 588 is not within this definition : “decree :”

“order” means the formal expression of any decision of a Civil Court which is not a decree as above defined : “order :”

“judgment” means the statement given by the Judge of the grounds of a decree or order : “judgment :”

“Judge” means the presiding officer of a Court : “Judge :”

“judgment-debtor” means any person against whom a decree or order has been made : “judgment-debtor :”

“decree-holder” means any person in whose favour a decree or any order capable of execution has been made, and includes any person to whom such decree or order is transferred : “decree-holder :”

“written” includes printed and lithographed, and “writing” includes print and lithograph : “written :”
“writing :”

“signed” includes marked, when the person making the mark is unable to write his name ; it also includes stamped with the name of the person referred to : “signed :”

“Foreign Court” means a Court situate beyond the limits of British India and not having authority in British India nor established by the Governor General in Council : “Foreign Court :”

“foreign judgment”^a means the judgment of a Foreign Court : “foreign judgment :”

“public officer” means a person falling under any of the following descriptions (namely) :— “public officer :”

every Judge ;

every covenanted servant of Her Majesty ;

every commissioned officer in the military or naval forces of Her Majesty while serving under Government ;

^a For limitation of suits on foreign judgments, see Act XV of 1877, Schedule II, Article 117, and section 3 of this Act.

(Preliminary. Sec. 3.)

every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties ;

every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience ;

every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of Government, or to make any survey, assessment or contract on behalf of Government, or to execute any revenue-process, or to investigate, or to report on, any matter affecting the pecuniary interests of Government, or to make, authenticate or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty.

“ Govern-
ment.”

And in any part of British India in which this Code operates, “ Govern-
ment ” includes the Government of India as well as the local Government.

Enactments
repealed.

3. The enactments specified in the first schedule hereto annexed are hereby repealed to the extent mentioned in the third column thereof. But all notifications published, declarations and rules made, places appointed, agreements filed, scales prescribed and forms framed under any such enactment shall, so far as they are consistent with this Code, be deemed to be respectively published, made, appointed, filed, prescribed and framed hereunder.

References in
previous Acts.

And when in any Act, Regulation or notification passed or issued prior to the day on which this Code comes into force, reference is made to Act No. VIII of 1859, Act No. XXIII of 1861, or the “ Code of Civil Procedure,” or to Act No. X of 1877, or to any other Act hereby repealed, such reference shall, so far as may be practicable, be read as applying to this Code or the corresponding part thereof.

VIII of 1859.
XXIII of
1861
X of 1877.

Saving of
procedure in
suits institu-
ted before
1st June,
1882.

Save as provided by section 99A, nothing herein contained shall affect any proceedings prior to decree in any suit instituted or appeal presented before the first day of June, 1882, or any proceedings after decree that may have been commenced and were still pending at that date.

Appeals

Every appeal pending on the twenty-ninth day of July, 1879, which would

have lain if this Code had been in force on the date of its presentation, shall be heard and determined as if this Code had been in force on such date; and every order passed before the same day, purporting to transfer a case to a Collector under Act No. X of 1877, section 320, and every notification published before the same day, purporting to be issued under Act No. X of 1877, section 360, shall be deemed to have been respectively passed and issued in accordance with law.

pending on 29th July, 1879. Order and notifications issued under Act X of 1877, sections 320 and 360.

4. Save as provided in the second paragraph of section 3, nothing herein contained shall be deemed to affect the following enactments (namely):—

XIV of 1865. The Central Provinces Courts Act, 1865:

XVII of 1875. The Burma Courts Act, 1875:

XVII of 1877. The Panjáb Courts Act, 1877^a:

XIII of 1879. The Oudh Civil Courts Act, 1879:

Saving of certain Acts affecting Central Provinces, Burma, Panjáb and Oudh.

24 & 25 Vic., or any law heretofore or hereafter passed under the Indian Councils Act 1861, by a Governor or a Lieutenant-Governor in Council, prescribing a special procedure for suits between landholders and their tenants or agents,

24 & 25 Vic., or any law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council, providing for the partition of immoveable property.

And where under any of the said Acts concurrent civil jurisdiction is given to the Commissioner and the Deputy Commissioner, the Local Government may declare which of such officers shall, for the purposes of this Code, be deemed to be the District Court.

5. The chapters and sections of this Code specified in the second schedule hereto annexed extend (so far as they are applicable) to Courts of Small Causes constituted under Act No. XI of 1865, and to all other Courts (other than the Courts of Small Causes in the towns of Calcutta, Madras, and Bombay^b) exercising the jurisdiction of a Court of Small Causes. The other chapters and sections of this Code do not extend to such Courts.

Sections extending to Provincial Small Cause Courts.

XI of 1865.

6. Nothing in this Code affects the jurisdiction or procedure —

(a) of Military Courts of Request^c;

(b) of a single officer duly appointed in the Presidency of Bombay to try small suits in military bázars at cantonments and stations occupied by the troops of that Presidency^d;

Saving of jurisdiction and procedure—
(a) of Military Court of Request;
(b) of officers appointed to try small suits in Bombay;

^a See now Act XVIII of 1884.

^b As to portions of this Code extending to these Courts, see Act XV of 1882, section 23.

^c See 44 & 45 Vic., cap. 58, ss. 148-150, and Acts XI of 1841 and XII of 1842.

^d See Bombay Act III of 1867.

(Preliminary. Secs. 7-9.)

(c) of Village Munsifs and Village Pancháyats in Madras ;

(c) of Village Munsifs or Village Pancháyats under the provisions of the Madras Code^a; or

(d) of Recorder of Rangoon sitting as Insolvent Court.

(d) of the Recorder of Rangoon sitting as an Insolvent Court in Rangoon, Maulmain, Akyab or Bassein^b ;

or shall operate to give any Court jurisdiction over suits of which the amount or value of the subject-matter exceeds the pecuniary limits (if any) of its ordinary jurisdiction.

7. With respect to—

Saving of certain Bombay laws.

(a) the jurisdiction exercised by certain jágírdárs and other authorities invested with powers under the provisions of Bombay Regulation XIII of 1830 and Act No. XV of 1840 in the cases therein mentioned, and

Bo. Reg. XIII
of 1840.
XV of 1840.

(b) cases of the nature defined in the enactments specified in the third schedule hereto annexed,

the procedure in such cases and in the appeals to the Civil Courts allowed therein shall be according to the rules laid down in this Code, except where those rules are inconsistent with any specific provisions contained in the enactments mentioned or referred to in this section.

Presidency Small Cause Courts.

8. Save as provided in sections 3, 25, 56, 223, 225, 356, and Chapter XXXIX,^c and by the Presidency Small Cause Courts Act, 1882,^c this Code shall not extend to any suit or proceeding in any Court of Small Causes established in the towns of Calcutta, Madras and Bombay. XV of 1882.

But the Local Government may, by notification published in the official Gazette, extend to any such Court this Code or any part thereof, except so far as relates to appeals and reviews of judgment.

Division of Code.

9. This Code is divided into ten Parts, as follows :—

| | |
|--------------------|--|
| The first Part : | Suits in general. |
| The second Part : | Incidental Proceedings. |
| The third Part : | Suits in particular cases. |
| The fourth Part : | Provisional Remedies. |
| The fifth Part : | Special Proceedings. |
| The sixth Part : | Appeals. |
| The seventh Part : | Reference to and Revision by the High Court. |

^a See Madras Regulations IV and V of 1816 and Act VIII of 1840.^b See Act XVII of 1875, section 66.^c See Act XV of 1882, section 3.

(Part I.—Of Suits in General. Chapter I.—Of the Jurisdiction of the Courts and *Res Judicata*. Secs. 10-12.)

| | |
|-------------------|---|
| The eighth Part : | Review of Judgment. |
| The ninth Part : | Special Rules relating to the Chartered High Courts. |
| The tenth Part : | Certain Miscellaneous Matters. |

PART I.

OF SUITS IN GENERAL.

CHAPTER I.^a

OF THE JURISDICTION OF THE COURTS AND *Res Judicata*.

10. No person shall, by reason of his descent or place of birth, be in any civil proceeding exempted from the jurisdiction of any of the Courts.

No person exempt from jurisdiction by reason of descent or place of birth.

11. The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is barred by any enactment for the time being in force.

Courts to try all civil suits unless specially barred.

EXPLANATION.—A suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

12. Except where a suit has been stayed under section 20, the Court shall not try any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit for the same relief between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court, whether superior or inferior, in British India having jurisdiction to grant such relief, or in any Court beyond the limits of British India established by the Governor General in Council and having like jurisdiction, or before Her Majesty in Council.

Pending suits.

EXPLANATION.—The pendency of a suit in a Foreign Court does not preclude the Courts in British India from trying a suit founded on the same cause of action.

^a This chapter, except section 11, extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part I.—Of Suits in General. Chapter I.—Of the Jurisdiction of the Courts and Res Judicata. Secs. 13-14.)

Res Judicata.

13. No Court shall try any suit or issue in which the matter directly and substantially in issue

has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court of jurisdiction competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and

has been heard and finally decided by such Court.

EXPLANATION I.—The matter above referred to must in the former suit have been alleged by one party and either denied or admitted, expressly or impliedly, by the other.

EXPLANATION II.—Any matter which might and ought to have been made ground of defence or attack in such former suit shall be deemed to have been a matter directly and substantially in issue in such suit.

EXPLANATION III.—Any relief claimed in the plaint, which is not expressly granted by the decree, shall, for the purpose of this section, be deemed to have been refused.

EXPLANATION IV.—A decision is final within the meaning of this section when it is such as the Court making it could not alter (except on review) on the application of either party or reconsider of its own motion. A decision liable to appeal may be final within the meaning of this section until the appeal is made.

EXPLANATION V.—Where persons litigate *bonâ fide* in respect of a private right claimed in common for themselves and others, all persons interested in such right shall, for the purpose of this section, be deemed to claim under the persons so litigating.

EXPLANATION VI.—Where a foreign judgment is relied on, the production of the judgment duly authenticated is presumptive evidence that the Court which made it had competent jurisdiction, unless the contrary appear on the record; but such presumption may be removed by proving the want of jurisdiction.

14. No foreign judgment shall operate as a bar to a suit in British India—

- (a) if it has not been given on the merits of the case;
- (b) if it appears on the face of the proceedings to be founded on an incorrect view of international law or of any law in force in British India:

When foreign judgment no bar to suit in British India.

(Part I.—Of Suits in General. Chapter II.—Of the Place of Suing.
Secs. 15-16.)

- (c) if it is in the opinion of the Court before which it is produced contrary to natural justice :
- (d) if it has been obtained by fraud :
- (e) if it sustains a claim founded on a breach of any law in force in British India.

CHAPTER II.^a

OF THE PLACE OF SUING.

15. Every suit shall be instituted in the Court of the lowest grade competent to try it.^b

Court in which suit to be instituted.

16. Subject to the pecuniary or other limitations prescribed by any law, suits—

Suits to be instituted where subject-matter situate.

- (a) for the recovery of immoveable property,
- (b) for the partition of immoveable property,
- (c) for the foreclosure or redemption of a mortgage of immoveable property,
- (d) for the determination of any other right to or interest in immoveable property,
- (e) for compensation for wrong to immoveable property,
- (f) for the recovery of moveable property actually under dstraint or attachment,

shall be instituted in the Court within the local limits of whose jurisdiction the property is situate :

Provided that suits to obtain relief respecting, or compensation for wrong to, immoveable property held by or on behalf of the defendant may, when the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction he actually and voluntarily resides, or carries on business, or personally works for gain.

^a This chapter, except section 20, paragraph 4, and sections 22 to 24 (both inclusive), extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

Sections 16, 17 and 19 do not apply to the Chartered High Courts in the exercise of their original civil jurisdiction—see section 638, *infra*.

^b See as to Ajmer, the Ajmer Courts Regulation, I of 1877, section 25 ; as to British Burma, Act XVII of 1875, section 20 ; as to the Central Provinces, Act XXVII of 1867 and section 3 of this Act ; as to the Jhānsī Division, Act XVIII of 1867, section 21, Act XXVII of 1867, and section 3 of this Act ; as to the Panjāb, Act XVIII of 1884, section 35.

This section is repealed in the districts of Ajmer and Merwāra—see the Ajmer Courts Regulation, I of 1877, section 2, and section 3 of this Act.

The section does not apply to the Jhānsī Division—see footnote on page 30, *supra*.

(Part I.—Of Suits in General. Chapter II.—Of the Place of Suing.
Secs. 17-18.)

EXPLANATION.—In this section “property” means property situate in British India.

Suits to be
instituted
where de-
fendants re-
side or cause
of action
arose.

17. Subject to the limitations aforesaid, all other suits shall be instituted in a Court within the local limits of whose jurisdiction—

- (a) the cause of action arises^a; or
- (b) all the defendants, at the time of the commencement of the suit, actually and voluntarily reside, or carry on business, or personally work for gain; or
- (c) any of the defendants, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain: provided that either the leave of the Court is given or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution.

EXPLANATION I.—Where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

EXPLANATION II.—A Corporation or Company shall be deemed to carry on business at its sole or principal office in British India or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations.

(a) A is a tradesman in Calcutta. B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A, and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

(b) A resides at Simla, B at Calcutta, and C at Delhi. A, B and C being together at Benares, B and C make a joint promissory-note payable on demand, and deliver it to A. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Delhi, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot be maintained without the leave of the Court.

Suits for
compensation
for wrongs to

18. In suits for compensation for wrong done to person or moveable property, if the wrong was done within the local limits of the jurisdiction of one

^a As to suits between landlord and tenant in Bengal—see Act VIII of 1885, section 141 and section 1.

(Part I.—Of Suits in General. Chapter II.—Of the place of Suing.
Secs. 19-20.)

Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the plaintiff may at his option sue in either of the said Courts.

person or
immoveable.

Illustrations.

(a) A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi.

(b) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

(c) A, travelling on the line of a Railway Company whose principal office is at Howrah, is upset and injured at Allahabad by negligence imputable to the Company. He may sue the Company either at Howrah or at Allahabad.

19.^a If the suit be to obtain relief respecting, or compensation for wrong to, immoveable property situate within the limits of a single district, but within the jurisdiction of different Courts, the suit may be instituted in the Court within whose jurisdiction any portion of the property is situate: provided that, in respect of the value of the subject-matter of the suit, the entire claim be cognizable by such Court.

Suits for
immoveable
property
situate in
single district,
but within
jurisdiction
of different
Courts.

If the immoveable property be situate within the limits of different districts, the suit may be instituted in any Court, otherwise competent to try it, within whose jurisdiction any portion of the property is situate.

Suits for im-
moveable pro-
perty situate
in different
districts.

20. If a suit which may be instituted in more than one Court is instituted in a Court within the local limits of whose jurisdiction the defendant or all the defendants does not or do not actually and voluntarily reside, or carry on business, or personally work for gain, the defendant or any defendant may, after giving notice in writing to the other parties of his intention to apply to the Court to stay proceedings, apply to the Court accordingly;

Power to stay
proceedings
where all
defendants do
not reside
within
jurisdiction.

and if the Court, after hearing such of the parties as desire to be heard, is satisfied that justice is more likely to be done by the suit being instituted in some other Court, it may stay proceedings either finally or till further order, and make such order as it thinks fit as to the costs already incurred by the parties or any of them.

In such case, if the plaintiff so requires, the Court shall return the plaint with an endorsement thereon of the order staying proceedings.

Every such application shall be made at the earliest possible opportunity, and in all cases before the issues are settled; and any defendant not so applying shall be deemed to have acquiesced in the institution of the suit.

Application
when to be
made.

^a This section does not apply to the Jhānsī Division—see footnote on page 30, *supra*.

(Part I.—Of Suits in General. Chapter II.—Of the Place of Suing.
Secs. 21-25.)

Remission of
court-fee
where suit
instituted in
another
Court.

21. Where the Court, under section 20, stays proceedings, and the plaintiff re-institutes his suit in another Court, the plaint shall not be chargeable with any court-fee: provided that the proper fee has been levied on the institution of the suit in the former Court, and that the plaint has been returned by such Court.

Procedure
where Courts
in which suit
may be
instituted
subordinate
to same
Appellate
Court.

22. Where a suit may be instituted in more Courts than one, and such Courts are subordinate to the same Appellate Court, any defendant, after giving notice in writing to the other parties of his intention to apply to such Court to transfer the suit to another Court, may apply accordingly; and the Appellate Court, after hearing the other parties, if they desire to be heard, shall determine in which of the Courts having jurisdiction the suit shall proceed.

Procedure
where they
are not so
subordinate.

23.^a Where such Courts are subordinate to different Appellate Courts, but are subordinate to the same High Court, any defendant, after giving notice in writing to the other parties of his intention to apply to the High Court to transfer the suit to another Court having jurisdiction, may apply accordingly. If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate. The High Court may, after considering the objections, if any, of the other parties, determine in which of the Courts having jurisdiction the suit shall proceed.

Procedure
where they
are subordin-
ate to differ-
ent High
Courts.

24.^b Where such Courts are subordinate to different High Courts, any defendant may, after giving notice in writing to the other parties of his intention to apply to the High Court within whose jurisdiction the Court in which the suit is brought is situate, apply accordingly.

If the suit is brought in any Court subordinate to a District Court, the application, together with the objections, if any, filed by the other parties, shall be submitted through the District Court to which such Court is subordinate;

and such High Court shall, after considering the objections, if any, of the other parties, determine in which of the several Courts having jurisdiction the suit shall proceed.

Transfer of
suits.

25.^{c, d} The High Court or District Court may, on the application of any of

^{a, b, c} These sections do not apply to the Jhansi Division—see footnote on page 30, *supra*.

^d In the Punjab Divisional Courts, Commissioners and Deputy Commissioners may exercise the powers of a District Court under this section, and those powers may also be delegated to Subordinate Judges—see Act XVIII of 1881, sections 31, 57 and 38.

This section is repealed in the districts of Ajmer and Merwara, and a different provision substituted—see the Ajmer Courts Regulation, I of 1877, sections 2 and 25, and section 3 of this Act.

(Part I.—Of Suits in General. Chapter III.—Of Parties and their Appearances, Applications and Acts. Secs. 26-28.)

the parties, after giving notice to the parties and hearing such of them as desire to be heard, or of its own motion without giving such notice, withdraw any suit, whether pending in a Court of first instance or in a Court of appeal subordinate to such High Court or District Court, as the case may be, and try the suit itself, or transfer it for trial to any other such subordinate Court competent to try the same in respect of its nature and the amount or value of its subject-matter.

For the purposes of this section, the Courts of Additional and Assistant Judges shall be deemed to be subordinate to the District Court.

The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

CHAPTER III. ^a

OF PARTIES AND THEIR APPEARANCES, APPLICATIONS AND ACTS.

26. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally or in the alternative, in respect of the same cause of action. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief, unless the Court in disposing of the costs of the suit otherwise directs.

Persons who may be joined as plaintiffs.

27. Where a suit has been instituted in the name of the wrong person a plaintiff, or where it is doubtful whether it has been instituted in the name of the right plaintiff, the Court may, if satisfied that the suit has been so commenced through a *bonâ file* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs upon such terms as the Court thinks just.

Court may substitute or add plaintiff for or to plaintiff suing.

28. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative, in respect of the same matter. And judgment may be given against such one or

Persons who may be joined as defendants.

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part I.—Of Suits in General. Chapter III.—Of Parties and their Appearances, Applications and Acts. Secs. 29-32.)

more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

Joinder of parties liable on same contract.

29. The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange, hundís and promissory notes.

One party may sue or defend on behalf of all in same interest.

30. Where there are numerous parties having the same interest in one suit, one or more of such parties may, with the permission of the Court, sue or be sued, or may defend, in such suit, on behalf of all parties so interested. But the Court shall in such case give, at the plaintiff's expense, notice of the institution of the suit to all such parties either by personal service or (if from the number of parties or any other cause such service is not reasonably practicable) by public advertisement, as the Court in each case may direct.

Suit not to fail by reason of misjoinder.

31. No suit shall be defeated by reason of the misjoinder of parties, and the Court may in every suit deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Nothing in this section shall be deemed to enable plaintiffs to join in respect of distinct causes of action.

Court may dismiss or add parties

32. The Court may, on or before the first hearing, upon the application of either party, and on such terms as the Court thinks just, order that the name of any party, whether as plaintiff or as defendant, improperly joined, be struck out ;

and the Court may at any time, either upon or without such application, and on such terms as the Court thinks just, order that any plaintiff be made a defendant or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the suit, be added.

Consent of person added as plaintiff or next friend.

No person shall be added as a plaintiff, or as the next friend of a plaintiff, without his own consent thereto.

Parties to suits instituted or defended under section 30.

Any person on whose behalf a suit is instituted or defended under section 30 may apply to the Court to be made a party to such suit.

Defendants added to be served.

All parties whose names are so added as defendants shall be served with a summons in manner hereinafter mentioned,^a and (subject to the provisions of

^a See sections 74, et. seq., *infra*.

(Part I.—Of Suits in General. Chapter III.—Of Parties and their Appearances, Applications and Acts. Secs. 33-37.)

XV of 1877. the Indian Limitation Act, 1877, section 22) the proceedings as against them shall be deemed to have begun only on the service of such summons.

The Court may give the conduct of the suit to such plaintiff as it deems proper. Conduct of suit.

33. Where a defendant is added, the plaint, if previously filed, shall, unless the Court direct otherwise, be amended in such manner as may be necessary, and an amended copy of the summons shall be served on the new defendant and the original defendants. Where defendant added, plaint to be amended.

34. All objections for want of parties, or for joinder of parties who have no interest in the suit, or for misjoinder as co-plaintiffs or co-defendants, shall be taken at the earliest possible opportunity, and in all cases before the first hearing; and any such objection not so taken shall be deemed to have been waived by the defendant. Time for taking objections as to non-joinder or misjoinder.

35. When there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any proceeding under this Code: and in like manner, when there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead or act for such other in any such proceeding. Each of several plaintiffs or defendants may authorise any other to appear, &c., for him.

The authority shall be in writing signed by the party giving it, and shall be filed in Court. Authority to be in writing, signed and filed.

Recognized Agents and Pleadors.

Recognized Agents and Pleadors.

36. Any appearance, application or act in or to any Court, required or authorized by law to be made or done by a party to a suit or appeal in such Court, may, except when otherwise expressly provided by any law for the time being in force, be made or done by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf: Appearances, &c., may be in person, by recognized agent or by pleader.

Provided that any such appearance shall be made by the party in person, if the Court so direct.

37.^a The recognized agents of parties by whom such appearances, applications and acts may be made or done are ^b— Recognized agents—

- (a) persons holding general powers-of-attorney from parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, authorized persons holding powers-of-attorney from parties out of jurisdiction:

^a See sections 11 and 16 of the Legal Practitioners' Act, XVIII of 1879.

^b As to recognized agents of Government, see sections 417 and 419, *infra*; of Princes and Chiefs, section 432, *infra*.

(Part I.—Of Suits in General. Chapter III.—Of Parties and their Appearances, Applications and Acts. Secs. 38-39.)

izing them to make and do such appearances, applications and acts on behalf of such parties; *Recognized Agents and Pleaders.*

certificated
mukhtárs :

- (b) mukhtárs duly certificated under any law for the time being in force, and holding special powers-of-attorney authorizing them to do, on behalf of their principals, such acts as may legally be done by mukhtárs;

persons carrying on trade or business for parties out of jurisdiction :

- (c) persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the Court within which limits the appearance, application or act is made or done, in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, applications and acts.^a

Recognized agents in Panjáb, Oudh and Central Provinces.

Nothing in the former part of this section applies to the territories now administered respectively by the Lieutenant-Governor of the Panjáb and the Chief Commissioners of Oudh and the Central Provinces; but in those territories the recognized agents of parties by whom such appearances, applications and acts may be made and done shall be such persons as the Local Government may, from time to time, by notification in the official Gazette, declare in this behalf.

Service of process on recognized agent.

38. Processes served on the recognized agent of a party to a suit or appeal shall be as effectual as if the same had been served on the party in person, unless the Court otherwise directs.

The provisions of this Code ^b for the service of process on a party to a suit shall apply to the service of process on his recognized agent.

Appointment of pleader.

39. The appointment of a pleader to make or do any appearance, application or act as aforesaid shall be in writing, and such appointment shall be filed in Court.

When so filed, it shall be considered to be in force until revoked with the leave of the Court, by a writing signed by the client and filed in Court, or until the client or the pleader dies, or all proceedings in the suit are ended so far as regards the client.

No advocate of any High Court established by Royal Charter shall be required to present any document empowering him to act.

^a Also, in suits and applications under the Bengal Tenancy Act, náibs and gumáshtas of landlords—see Act VIII of 1885, section 145 and section 1.

As to Ajmer, see also the Ajmer Courts Regulation, I of 1877, section 28, and section 3 of this Act.

^b See Chapter VI, *infra*.

(Part I.—Of Suits in General. Chapter IV.—Of the Frame of the Suit.
Secs. 40-43.)

*Recognized
Agents and
Pleaders.*

40. Processes served on the pleader of any party or left at the office or ordinary residence of such pleader, relative to a suit or appeal, and whether the same be for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents; and, unless the Court otherwise directs, shall be as effectual for all purposes in relation to the suit or appeal as if the same had been given to or served on the party in person.

*Service of
process on
pleader.*

41. Besides the recognized agents described in section 37, any person residing within the jurisdiction of the Court may be appointed an agent to accept service of process.

*Agent to re-
ceive process.*

Such appointment may be special or general, and shall be made by an instrument in writing signed by the principal, and such instrument, or, if the appointment be general, a duly attested copy thereof, shall be filed in Court.

*His appoint-
ment to be in
writing and
to be filed in
Court.*

CHAPTER IV.^a

OF THE FRAME OF THE SUIT.

42. Every suit shall, as far as practicable, be so framed as to afford ground for a final decision upon the subjects in dispute, and so to prevent further litigation concerning them.

*Suit how to
be framed.*

43.^b Every suit shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court.

*Suit to in-
clude whole
claim.*

If a plaintiff omit to sue in respect of, or intentionally relinquish, any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

*Relinquish-
ment of part
of claim.*

A person entitled to more than one remedy in respect of the same cause of action may sue for all or any of his remedies; but if he omits (except with the leave of the Court obtained before the first hearing) to sue for any of such remedies, he shall not afterwards sue for the remedy so omitted.

*Omission to
sue for one
of several re-
medies.*

For the purpose of this section, an obligation and a collateral security for its performance shall be deemed to constitute but one cause of action.

^a This chapter, except section 42 and section 44, rule *a*, extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

^b See Act IV of 1882, section 99

(Part I.—Of Suits in General. Chapter IV.—Of the Frame of the Suit.
Secs. 44-46.)

Illustration.

A lets a house to B at a yearly rent of Rs. 1,200. The rent for the whole of the years 1881 and 1882 is due and unpaid. A sues B only for the rent due for 1882. A shall not afterwards sue B for the rent due for 1881.

Only certain claims to be joined with suit for recovery of land.

44. Rule a.—No cause of action shall, unless with the leave of the Court, be joined with a suit for the recovery of immoveable property, or to obtain a declaration of title to immoveable property, except—

- (a) claims in respect of mesne profits or arrears of rent in respect of the property claimed,
- (b) damages for breach of any contract under which the property or any part thereof is held, and
- (c) claims by a mortgagee to enforce any of his remedies under the mortgage.

Claims by or against executor, administrator or heir.

Rule b.—No claim by or against an executor, administrator or heir as such, shall be joined with claims by or against him personally, unless the last mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator or heir, or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents.

Plaintiff may join several causes of action.

45. Subject to the rules contained in Chapter II and in section 44, the plaintiff may unite in the same suit several causes of action against the same defendant or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly, may unite such causes of action in the same suit.

Court may order separation.

But if it appear to the Court that any such causes of action cannot be conveniently tried or disposed of together, the Court may, at any time before the first hearing, of its own motion or on the application of any defendant, or at any subsequent stage of the suit, if the parties agree, order separate trials of any such causes of action to be had, or make such other order as may be necessary or expedient for the separate disposal thereof.

When causes of action are united, the jurisdiction of the Court as regards the suit shall depend on the amount or value of the aggregate subject-matters at the date of instituting the suit, whether or not an order has been made under the second paragraph of this section.

Defendant may apply to confine suit.

46. Any defendant alleging that the plaintiff has united in the same suit several causes of action which cannot be conveniently disposed of in one suit

(Part I.—Of Suits in General. Chapter V.—Of the Institution of Suits.
Secs. 47-50.)

may, at any time before the first hearing, or, where issues are settled, before any evidence is recorded, apply to the Court for an order confining the suit to such of the causes of action as may be conveniently disposed of in one suit.

47. If, on the hearing of such application, it appears to the Court that the causes of action are such as cannot all be conveniently disposed of in one suit, the Court may order any of such causes of action to be excluded, and may direct the plaint to be amended accordingly, and may make such order as to costs as may be just.

Court on hearing application may exclude some causes and order amendment.

Every amendment made under this section shall be attested by the signature of the Judge.

CHAPTER V.^a

OF THE INSTITUTION OF SUITS.

48. Every suit shall be instituted by presenting a plaint to the Court or such officer as it appoints in this behalf.

Suits to be commenced by plaint.

49. The plaint must be distinctly written in the language of the Court^b; provided that, if such language is not English, the plaint may (with the permission of the Court) be written in English; but in such case, if the defendant so require, a translation of the plaint into the language of the Court shall be filed in Court.

Language of plaint.

50. The plaint^c must contain the following particulars^d :—

Particulars to be contained in plaint:

(a) the name of the Court in which the suit is brought;

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

Section 54, clauses (a) and (b), and section 57 do not apply to the Chartered High Courts in the exercise of their original civil jurisdiction—see section 638, *infra*.

^b As regards British Burma, see Act XVII of 1875, section 20, and section 3 of this Act.

^c For forms of plaints, see Schedule IV, Nos 1 to 113, *infra*.

^d As to plaints—

in suits against the Secretary of State in Council or a public officer—see section 424, *infra*.
in interpleader suits—see section 471, *infra*.

in suits for infringement of patent—see Act XV of 1859, section 34.

in suits by Companies against members—see Act VI of 1882, section 94.

in suits between landlords and tenants in the Central Provinces—see Act IX of 1883, section 67.

in suits between landlords and tenants in Chutia Nágpur—see Bengal Act I of 1879, sections 46-48.

in suits under the North-Western Provinces Rent Act—see Act XII of 1881, sections 104, 110 and 111.

in suits under the Oudh Rent Act—see Act XIX of 1868, section 110, and section 3 of this Act.

in suits for recovery of rent in Madras—see Madras Act VIII of 1865, section 50.

in suits for recovery of rent in Bengal—see Act VIII of 1885, section 148, clause (b), and section 1.

in suits before Village Munsifs in Madras—see Madras Regulation IV of 1816, section 11.

in suits under the Bombay Mámlatdárs' Courts Act—see Bombay Act III of 1876, section 5.

(Part I.—Of Suits in General. Chapter V.—Of the Institution of Suits.
Sec. 50.)

- (b) the name, description and place of residence of the plaintiff ^a ;
- (c) the name, description and place of residence of the defendant, so far as they can be ascertained ;
- (d) a plain and concise statement of the circumstances constituting the cause of action, and where and when it arose ;
- (e) a demand of the relief which the plaintiff claims ; and
- (f) if the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

in money-
suits :

If the plaintiff seeks the recovery of money, the plaint must state the precise amount, so far as the case admits.

In a suit for mesne profits, and in a suit for the amount which will be found due to the plaintiff on taking unsettled accounts between him and the defendant, the plaint need only state approximately the amount sued for.

where
plaintiff sues
as representa-
tive.

When the plaintiff sues in a representative character, the plaint should shew, not only that he has an actual existing interest in the subject-matter, but that he has taken the steps necessary to enable him to institute a suit concerning it.

Illustrations.

(a) A sues as B's executor. The plaint must state that A has proved B's will.

(b) A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.

(c) A sues as guardian of D, a Muhammadan minor. A is not D's guardian according to Muhammadan law and usage. The plaint must state that A has been specially appointed D's guardian.

Defendant's
interest and
liability to
be shewn.

The plaint must shew that the defendant is, or claims to be, interested in the subject-matter, and that he is liable to be called upon to answer the plaintiff's demand.

Illustration.

A dies, leaving B his executor, C his legatee, and D a debtor to A's estate. C sues D to compel him to pay his debt in satisfaction of C's legacy. The plaint must shew that B has causelessly refused to sue D, or that B and D have colluded for the purpose of defrauding C, or other such circumstances rendering D liable to C.

Grounds of
exemption
from
limitation-
law.

If the cause of action arose beyond the period ordinarily allowed by any law for instituting the suit, the plaint must shew the ground upon which exemption from such law is claimed.

^a As to plaints in suits by the Secretary of State for India in Council—see section 118, *infra*.

(Part I.—Of Suits in General. Chapter V.—Of the Institution of Suits.
Secs. 51-54.)

51. The plaint shall be signed by the plaintiff^a and his pleader (if any), and shall be verified at the foot by the plaintiff^a or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case :

Plaints to be signed and verified.

Provided that if the plaintiff is, by reason of absence or for other good cause, unable to sign the plaint, it may be signed by any person duly authorized by him in this behalf.

Contents of verification.

52. The verification must be to the effect that the same is true to the knowledge of the person making it, except as to matters stated on information and belief, and that as to those matters he believes it to be true.

Verification to be signed and attested.

The verification shall be signed by the person making it.

53. The plaint may, at the discretion of the Court and at or before the first hearing, be rejected, returned for amendment within a time to be fixed by the Court, or amended then and there, upon such terms as to the payment of costs occasioned by the amendment as the Court thinks fit,—

When plaint may be rejected, returned for amendment, or amended.

- (a) if it does not state correctly and without prolixity the several particulars hereinbefore required to be specified therein ; or
- (b) if it contains any particulars other than those so required ; or
- (c) if it is not signed and verified as hereinbefore required ; or
- (d) if it does not disclose a cause of action ; or
- (e) if it is not framed in accordance with section 42 ; or
- (f) if it is wrongly framed by reason of non-joinder or misjoinder of parties, or because the plaintiff has joined causes of action which ought not to be joined in the same suit :

Provided that a plaint cannot be altered so as to convert a suit of one character into a suit of another and inconsistent character.

Proviso.

When a plaint is amended, the amendment shall be attested by the signature of the Judge.

Attestation of amendment.

54. The plaint shall be rejected in the following cases :—

When plaint shall be rejected.

- (a) if the relief sought is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so :
- (b) if the relief sought is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so :

^a As to Corporations and Companies—see section 435, *infra*.

(Part I.—Of Suits in General. Chapter V.—Of the Institution of Suits.
Secs. 55-58.)

(c) if the suit appears from the statement in the plaint to be barred by any positive rule of law :

(d) if the plaint, having been returned for amendment within a time fixed by the Court, is not amended within such time.

Procedure on
rejecting
plaint.

When rejection of plaint does not preclude presentation of fresh plaint.

When plaint shall be returned to be presented to proper Court.

55. When a plaint is rejected, the Judge shall record with his own hand an order to that effect with the reason for such order.

56. The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

57. The plaint shall be returned to be presented to the proper Court in the following cases :—

(a) if a suit has been instituted in a Court whose grade is lower or higher than that of the Court competent to try it, where such Court exists, or where no option as to the selection of the Court is allowed by law :

(b) if, in a suit relating to immoveable property, but not coming under the proviso to section 16, it appears that no part of such property is situate within the local limits of the jurisdiction of the Court to which the plaint is presented :

(c) if, in any other case, it appears that the cause of action did not arise, and that none of the defendants are dwelling or carrying on business, or personally working for gain, within such local limits.

Procedure on
returning
plaint.

On returning a plaint, the Judge shall, with his own hand, endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reason for returning it.

Procedure on
admitting
plaint.

58. The plaintiff shall endorse on the plaint, or annex thereto, a memorandum of the documents (if any) which he has produced along with it ; and, if the plaint be admitted, shall present as many copies on plain paper of the plaint as there are defendants, unless the Court by reason of the length of the plaint or the number of the defendants, or for any other sufficient reason, permits him to present a like number of concise statements^a of the nature of the claim made, or of the relief or remedy required, in the suit, in which case he shall present such statements.

Concise.
statements.

If the plaintiff sues, or the defendant or any of the defendants is sued, in

^a For forms of concise statements—see Schedule IV, No. 114, *infra*.

(Part I.—Of Suits in General. Chapter V.—Of the Institution of Suits.
Secs. 59-62.)

a representative capacity, such statements shall show in what capacity the plaintiff or defendant sues or is sued.

The plaintiff may, by leave of the Court, amend such statements so as to make them correspond with the plaint.

The chief ministerial officer of the Court shall sign such memorandum and copies or statements if, on examination, he finds them to be correct.

The Court shall also cause the particulars mentioned in section 50 to be entered in a book to be kept for the purpose and called the Register of civil suits.^a Such entries shall be numbered in every year according to the order in which the plaint is admitted.

Register of suits.

59. If a plaintiff sues upon a document in his possession or power, he shall produce it in Court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

Production of document on which plaintiff sues. Delivery of document or copy.

If he rely on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

List of other documents.

60. In the case of any such document not in his possession or power, he shall, if possible, state in whose possession or power it is.

Statement in case of documents not in his possession or power.

61. In case of any suit founded upon a negotiable instrument, if it be proved that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the Court, against the claims of any other person upon such instrument, the Court may make such decree as it would have made if the plaintiff had produced the instrument in Court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

Suits on lost negotiable instruments.

62. If the document on which the plaintiff sues be an entry in a shop-book or other book in his possession or power, the plaintiff shall produce the book at the time of filing the plaint, together with a copy of the entry on which he relies.

Production of shop book.

^a For form of register—see Schedule IV, No. 116, *infra*; for power of Chartered High Courts to alter that form—see section 644, *infra*.

For power to prescribe separate registers for suits between landlords and tenants in the Central Provinces and Bengal—see Act IX of 1883, section 66, and Act VIII of 1885, section 146 and section 1.

As to further entries in the register, see sections 245, 426, 562 and 581, *infra*.

(Part I.—Of Suits in General. Chapter VI.—Of the Issue and Service of Summons. Secs. 63-65.)

Original entry to be marked and returned.

The Court, or such officer as it appoints in this behalf, shall forthwith mark the document for the purpose of identification; and, after examining and comparing the copy with the original and attesting the copy if found correct, shall return the book to the plaintiff and cause the copy to be filed.

Inadmissibility of document not produced when plaint filed.

63. A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.

Nothing in this section applies to documents produced for cross-examination of the defendant's witnesses, or in answer to any case set up by the defendant, or handed to a witness merely to refresh his memory.

CHAPTER VI.^a

OF THE ISSUE AND SERVICE OF SUMMONS.

Issue of Summons.

Summons.

64. When the plaint has been registered, and the copies or concise statements required by section 58 have been filed, a summons^b may be issued to each defendant to appear and answer the claim on a day to be therein specified,—

Issue of Summons.

- (a) in person, or
- (b) by a pleader duly instructed and able to answer all material questions relating to the suit, or
- (c) by a pleader accompanied by some other person able to answer all such questions.

Every such summons shall be signed by the Judge or such officer as he appoints, and shall be sealed with the seal of the Court:

Provided that no such summons shall be issued when the defendant has appeared at the presentation of the plaint and admitted the plaintiff's claim.

65. Every such summons shall be accompanied with one of the copies or concise statements mentioned in section 58.

Copy or statement annexed to summons.

^a This chapter, except section 77, extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

^b For forms of summons see G. O. P. L. V. N. 117, 118, 119, 120, 121.

(Part I.—Of Suits in General. Chapter VI.—Of the Issue and Service of Summons. Secs. 65-71.)

66. If the Court sees reason to require the personal appearance of the defendant, the summons shall order him to appear in person in Court on the day therein specified.

Court may order defendant or plaintiff to appear in person.

If the Court sees reason to require the personal appearance of the plaintiff on the same day, it may make an order for such appearance.

67. No party shall be ordered to appear in person unless he resides—

(a) within the local limits of the Court's ordinary original jurisdiction, or

(b) without such limits and at a place less than fifty or, where there is railway-communication for five-sixths of the distance between the place where he resides and the place where the Court is situate, two hundred miles from the Court-house.

No party to be ordered to appear in person unless resident within 50 or, where there is railway, 200 miles.

68. The Court shall determine, at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit; and the summons shall contain a direction accordingly :

Summons to be either to settle issues or for final disposal.

Provided that, in every suit heard by Courts of Small Causes, the summons shall be for the final disposal of the suit.^a

69. The day for the appearance of the defendant shall be fixed by the Court with reference to its current business, the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant sufficient time to enable him to appear and answer on such day.

Fixing day for appearance of defendant.

What shall be deemed "sufficient time" must be determined with reference to the circumstances of the case.

70. The summons to appear and answer shall order the defendant to produce any document in his possession or power, containing evidence relating to the merits of the plaintiff's case, or upon which the defendant intends to rely in support of his case.

Summons to order defendant to produce documents required by plaintiff or relied on by defendant.

71. When the summons is for the final disposal of the suit, it shall direct the defendant to produce, on the day fixed for his appearance, the witnesses upon whose evidence he intends to rely in support of his case.

On issue of summons for final disposal defendant to be directed to produce his witnesses.

^a As to suits for recovery of rent in Bengal—see Act VIII of 1885, section 148, clause (a), and section I.

(Part I.—Of Suits in General. Chapter VI.—Of the Issue and Service of Summons. Secs. 72-75.)

Service of Summons.^a

Delivery of
summons for
service.

Mode of
service.

Service on
several
defendants.

Service to be
on defendant
in person
when prac-
ticable, or on
his agent.

Service on
agent by
whom defend-
ant carries
on business.

Service on
agent in
charge, in
suits for
immoveable
property.

When service
may be on
male member
of defend-
ant's family.

*Service of
Summons.*

72. The summons shall be delivered to the proper officer of the Court, to be served by him or one of his subordinates.

73. Service of the summons shall be made by delivering or tendering a copy thereof signed by the Judge or such officer as he appoints in this behalf, and sealed with the seal of the Court.^b

74. When there are more defendants than one, service of the summons shall be made on each defendant:

Provided that, if the defendants are partners, and the suit relates to a partnership-transaction or to an actionable wrong in respect of which relief is claimable from the firm, the service may be made, unless the Court directs otherwise, either (a) on one defendant for himself and for the other defendants, or (b) on any person having the management of the business of the partnership at the principal place, within the local limits of the Court's ordinary original civil jurisdiction, of such business.

75. Whenever it may be practicable, the service shall be made on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

76. In a suit relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the Court from which the summons issues, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

For the purpose of this section, the master of a ship is the agent of his owner or charterer.

77. In a suit to obtain relief respecting, or compensation for wrong to, immoveable property, if the service cannot be made on the defendant in person, and the defendant have no agent empowered to accept the service, it may be made on any agent of the defendant in charge of the property.

78. If in any suit the defendant cannot be found and if he have no agent empowered to accept the service of the summons on his behalf, the service may be made on any adult male member of the family of the defendant who is residing with him.

^a As to service in suits against Corporations and Companies—see section 436, *infra*.

^b For power to direct service by registered letter in suits for recovery of rent in Bengal—see Act VIII of 1855, section 145, clause (d), and section 1.

(Part I.—Of Suits in General. Chapter VI.—Of the Issue and Service of Summons. Secs. 79-84.)

EXPLANATION.—A servant is not a member of the family within the meaning of this section.

79. When the serving-officer delivers or tenders a copy of the summons to the defendant personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgment of service endorsed on the original summons.

Person served to sign acknowledgment.

80. If the defendant or other person refuses to sign the acknowledgment,

Procedure when defendant refuses to accept service, or cannot be found.

or if the serving-officer cannot find the defendant, and there is no agent empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be made,

the serving officer shall affix a copy of the summons on the outer door of the house in which the defendant ordinarily resides, and then return the original to the Court from which it issued, with a return endorsed thereon or annexed thereto, stating that he has so affixed the copy and the circumstances under which he did so.

81. The serving-officer shall, in all cases in which the summons has been served under section 79, endorse or annex, or cause to be endorsed or annexed, on or to the original summons, a return stating the time when and the manner in which the summons were^a served.

Endorsement of time and manner of service.

82. When a summons is returned under section 80, the Court shall examine the serving-officer on oath touching his proceedings, and may make such further enquiry in the matter as it thinks fit; and shall either declare that the summons has been duly served or order such service as it thinks fit.

Examination of serving-officer.

Where the Court is satisfied that there is reason to believe that the defendant is keeping out of the way for the purpose of avoiding the service, or that for any other reason the summons cannot be served in the ordinary way, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the court-house, and also upon some conspicuous part of the house, if any, in which the defendant is known to have last resided, or in such other manner as the Court thinks fit.

Substituted service.

83. The service substituted by order of the Court shall be as effectual as if it had been made on the defendant personally.

Effect of substituted service.

84. Whenever service is substituted by order of the Court, the Court shall fix such time for the appearance of the defendant as the case may require.

When service substituted, time for appearance to be fixed.

^a *Sic.* Read 'was'.

(Part I.—Of Suits in General. Chapter VI.—Of the Issue and Service of Summons. Secs. 85-89.)

Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.

85. If the defendant resides within the jurisdiction of any Court other than the Court in which the suit is instituted, and has no agent resident within the local limits of the jurisdiction of the latter Court empowered to accept the service of the summons, such Court shall send^a the summons, either by one of its officers or by post, to any Court, not being a High Court, having jurisdiction at the place where the defendant resides, by which it can be conveniently served, and shall fix such time for the appearance of the defendant as the case may require.

Serv Sum.

The Court to which the summons is sent shall, upon receipt thereof, proceed as if it had been issued by such Court, and shall then return^b the summons to the Court from which it originally issued, together with the record (if any) made under this paragraph.

Service, within Presidency-towns and Rangoon, of process issued by Provincial Courts.

86. Whenever any process issued by any Court established beyond the limits of the towns of Calcutta, Madras, Bombay and Rangoon is to be served within any such town, it shall be sent to the Court of Small Causes within whose jurisdiction the process is to be served,

and such Court of Small Causes shall deal with such process in the same manner as if the process had been issued by itself,

and shall then return the process to the Court from which it issued.

Service on defendant in jail.

87. If the defendant be in jail, the summons shall be delivered to the officer in charge of the jail in which the defendant is confined, and such officer shall cause the summons to be served upon the defendant.

The summons shall be returned to the Court from which it issued, with a statement of the service endorsed thereon and signed by the officer in charge of the jail and by the defendant.

Procedure if jail be in different district.

88. If the jail in which the defendant is confined is not in the district in which the suit is instituted, the summons may be sent by post or otherwise to the officer in charge of such jail, and such officer shall cause the summons to be served upon the defendant, and shall return the summons to the Court from which it issued, with a statement of the service endorsed thereon, and signed as provided in section 87.

Service when defendant resides out of British India and has no agent to accept service.

89. If the defendant resides out of British India, and has no agent in British India empowered to accept the service, the summons shall be addressed to the defendant at the place where he is residing, and forwarded to him by post if there be postal communication between such place and the place where the Court is situate.

^{a b} See Schedule IV, Forms 120 and 121, *infra*.

(Part I.—Of Suits in General. Chapter VI.—Of the Issue and Service of Summons. Secs. 90-95.)

Service of Summons.

90. If there be a British Resident or Agent of Government in or for the territory in which the defendant resides, the summons may be sent to such Resident or Agent, by post or otherwise, for the purpose of being served upon the defendant; and if the Resident or Agent returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be conclusive evidence of the service.

Service through British Resident or Agent of Government.

91. The Court may, notwithstanding anything hereinbefore contained, substitute for the summons a letter signed by the Judge or such officer as he appoints in this behalf, when the defendant is, in the opinion of the Court, of a rank which entitles him to such mark of consideration.

Substitution of letter for summons.

The letter shall contain all the particulars required to be stated in the summons, and, subject to the provisions contained in section 92, shall be treated in all respects as a summons.

92. When a letter is so substituted for a summons, it may be sent to the defendant by post or by a special messenger selected by the Court, or in any other manner which the Court thinks fit; unless the defendant has an agent empowered to accept service of summons, in which case the letter may be delivered or sent to such agent.

Mode of sending such letter.

Service of Process.

Service of Process.

93. Every process issued under this Code shall be served at the expense of the party on whose behalf it is issued, unless the Court otherwise directs.

Process to be served at expense of party issuing. Costs of service.

The court-fee leviable for such service shall be levied within a time to be fixed by the Court before the process is issued.

94. All notices and orders required by this Code to be given to or served on any person shall be in writing, and shall be served in the manner hereinbefore provided for the service of summons.

Notices and orders in writing how served.

Postage.^a

Postage.

95. Postage, where chargeable on any notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid within a time to be fixed by the Court before the communication is forwarded :

Postage.

Provided that the Local Government, with the previous sanction of the

^a See Government of India (Financial Department) Resolution No. 225, dated 12th April, 1882.

(Part I.—Of Suits in General. Chapter VII.—Of the Appearance of the Parties and Consequence of Non-appearance. Secs. 96-99A.)

Governor General in Council, may remit such postage, or fee, or both, or may prescribe a scale of court-fees to be levied in lieu thereof.

CHAPTER VII.^a

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.

Parties to appear on day fixed in summons for defendant to appear and answer. Dismissal of suit where summons not served in consequence of plaintiff's failure to pay fee for issuing. Proviso.

96. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the court-house in person or by their respective pleaders, and the suit shall then be heard, unless the hearing be adjourned to a future day fixed by the Court.

97. If, on the day so fixed for the defendant to appear and answer, it be found that the summons has not been served upon him in consequence of the failure of the plaintiff to pay the court-fee leviable for such service, the Court may order that the suit be dismissed :

Provided that no such order shall be passed, although the summons has not been served upon the defendant, if, on the day fixed for him to appear and answer, he attends in person, or by agent, when he is allowed to appear by agent.

If neither party appears, suit to be dismissed.

98. If on the day fixed for the defendant to appear and answer, or on any other subsequent day to which the hearing of the suit is adjourned, neither party appears, the suit shall be dismissed, unless the Judge, for reasons to be recorded under his hand, otherwise directs.

In such case plaintiff may bring fresh suit :

99. Whenever a suit is dismissed under section 97 or section 98, the plaintiff may (subject to the law of limitation^b) bring a fresh suit ; or if, within the period of thirty days from the date of the order dismissing the suit, he satisfies the Court that there was a sufficient excuse for his not paying the court-fee required within the time allowed for the service of the summons, or for his non-appearance, as the case may be, the Court shall pass an order to set aside the dismissal and appoint a day for proceeding with the suit.

or Court may restore suit to its file.

Dismissal of suit where plaintiff, after summons returned unserved, fails for a year to apply for fresh summons.

99A. If, after a summons has, whether before or after the first day of June, 1882, been issued to the defendant, or to one of several defendants, and returned unserved, the plaintiff fails for a period of one year from such return to apply for the issue of a fresh summons and to satisfy the Court that he has

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

^b See Act XV of 1877.

(Part I.—Of Suits in General. Chapter VII.—Of the Appearance of the Parties and Consequence of Non-appearance. Secs. 100-103.)

used his best endeavours to discover the residence of the defendant who has not been served, or that such defendant is avoiding service of process, the Court may dismiss the suit as against such defendant.

In such case the plaintiff may (subject to the law of limitation^a) bring a fresh suit.

100. If the plaintiff appears and the defendant does not appear, the procedure shall be as follows:—

- (a) if it is proved that the summons was duly served, the Court may proceed *ex parte* :

Procedure if only plaintiff appears, when summons duly served,
- (b) if it is not proved that the summons was duly served, the Court shall direct a second summons to be issued and served on the defendant :

when summons not duly served,
- (c) if it is proved that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and shall direct notice of such day to be given to the defendant.

when summons served, but not in due time.

If it is owing to the plaintiff's default that the summons was not served in sufficient time, the Court shall order him to pay the costs occasioned by such postponement.

101. If the Court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit, as if he had appeared on the day fixed for his appearance.

Procedure where defendant appears on day of adjourned hearing, and assigns good cause for previous non-appearance.

102. If the defendant appears and the plaintiff does not appear, the Court shall dismiss the suit, unless the defendant admits the claim, or part thereof, in which case the Court shall pass a decree against the defendant upon such admission, and, where part only of the claim has been admitted, shall dismiss the suit so far as it relates to the remainder.

Procedure where defendant only appears.

103. When a suit is wholly or partially dismissed under section 102, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action. But he may apply for an order to set the dismissal aside; and, if it be proved that he was prevented by any sufficient cause from appear-

Decree against plaintiff by default bars fresh suit.

(Part I.—Of Suits in General. Chapter VII.—Of the Appearance of the Parties and Consequence of Non-appearance. Secs. 104-109.)

ing when the suit was called on for hearing, the Court shall set aside the dismissal upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

No order shall be made under this section unless the plaintiff has served the defendant with notice in writing of his application.

Procedure where defendant residing out of British India does not appear.

104. If, on the day fixed for the hearing of a suit against a defendant residing out of British India, who has no agent empowered to accept service of summons, or on any day to which the hearing has been adjourned, the defendant does not appear, the plaintiff may apply to the Court for permission to proceed with his suit, and the Court may direct that the plaintiff be at liberty to proceed with his suit in such manner and subject to such conditions as the Court thinks fit.

Procedure in case of non-attendance of one or more of several plaintiffs.

105. If there be more plaintiffs than one, and one or more of them appear and the others do not appear, the Court may, at the instance of the plaintiff or plaintiffs appearing, permit the suit to proceed in the same way as if all the plaintiffs had appeared, and pass such order as it thinks fit.

Procedure in case of non-attendance of one or more of several defendants.

106. If there be more defendants than one, and one or more of them appear, and the others do not appear, the suit shall proceed, and the Court shall, at the time of passing judgment, make such order as it thinks fit with respect to the defendants who do not appear.

Consequence of non-attendance, without sufficient cause shewn, of party ordered to appear in person.

107. If a plaintiff or defendant, who has been ordered to appear in person under the provisions of section 66 or section 436, does not appear in person, or shew sufficient cause to the satisfaction of the Court for failing so to appear, he shall be subject to all the provisions of the foregoing sections applicable to plaintiffs and defendants, respectively, who do not appear.

Of setting aside Decrees ex parte.

Setting aside decree *ex parte* against defendant.

108. In any case in which a decree is passed *ex parte* against a defendant, he may apply to the Court by which the decree was made for an order to set it aside;

Of setting aside Decrees ex parte.

and if he satisfies the Court that the summons was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the decree upon such terms as to costs, payment into court or otherwise, as it thinks fit, and shall appoint a day for proceeding with the suit.

No decree to be set aside without notice to opposite party.

109. No decree shall be set aside on any such application as aforesaid, unless notice thereof in writing has been served on the opposite party.

(Part I.—Of Suits in General. Chapter VIII.—Of Written Statements and Set-off. Secs. 110-111.)

CHAPTER VIII.

OF WRITTEN STATEMENTS AND SET-OFF.

110. The parties may, at any time before or at the first hearing of the suit, tender written statements^a of their respective cases, and the Court shall receive such statements and place them on the record. Written statements.

^b 111. If in a suit for the recovery of money the defendant claims to set off against the plaintiff's demand any ascertained sum of money legally recoverable by him from the plaintiff, and if in such claim of the defendant against the plaintiff both parties fill the same character as they fill in the plaintiff's suit, the defendant may, at the first hearing of the suit, but not afterwards unless permitted by the Court, tender a written statement containing the particulars of the debt sought to be set off. Particulars of set-off to be given in written statement.

The Court shall thereupon inquire into the same, and if it finds that the case fulfils the requirements of the former part of this section, and that the amount claimed to be set off does not exceed the pecuniary limits of its jurisdiction, the Court shall set off the one debt against the other. Inquiry.

Such set-off shall have the same effect as a plaint in a cross-suit so as to enable the Court to pronounce a final judgment in the same suit, both on the original and on the cross claim; but it shall not affect the lien, upon the amount decreed, of any pleader in respect of the costs payable to him under the decree. Effect of set-off.

Illustrations.

(a) A bequeaths Rs. 2,000 to B, and appoints C his executor and residuary legatee. B dies and D takes out administration to B's effects. C pays Rs. 1,000 as surety for D. Then D sues C for the legacy. C cannot set off the debt of Rs. 1,000 against the legacy; for neither C nor D fills the same character with respect to the legacy as they fill with respect to the payment of the Rs. 1,000.

(b) A dies intestate and in debt to B. C takes out administration to A's effects, and B buys part of the effects from C. In a suit for the purchase-money by C against B, the latter cannot set off the debt against the price, for C fills two different characters, one as the vendor to B, in which he sues B, and the other as representative to A.

^a For forms of written statements—see Schedule IV, Nos. 29, 88, 107 and 122, *infra*.

Except in cases of set-off under section 111, no written statement may be received by a Court of Small Causes in a Presidency-town, unless required by the Court—see Act XV of 1882, section 24.

In suits for recovery of rent in Bengal, a written statement may not be filed without the leave of the Court—see Act VIII of 1885, section 148, clause (e), and section 1.

^b This section extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part I.—Of Suits in General. Chapter VIII.—Of Written Statements and Set-off. Secs. 112-114.)

(c) A sues B on a bill of exchange. B alleges that A has wrongfully neglected to insure B's goods and is liable to him in compensation which he claims to set off. The amount not being ascertained cannot be set off.

(d) A sues B on a bill of exchange for Rs. 500. B holds a judgment against A for Rs. 1,000. The two claims being both definite pecuniary demands may be set off.

(e) A sues B for compensation on account of a trespass. B holds a promissory note for Rs. 1,000 from A and claims to set off that amount against any sum that A may recover in the suit. B may do so, for, as soon as A recovers, both sums are definite pecuniary demands.

(f) A and B sue C for Rs. 1,000. C cannot set off a debt due to him by A alone.

(g) A sues B and C for Rs. 1,000. B cannot set off a debt due to him alone by A.

(h) A owes the partnership-firm of B and C Rs. 1,000. B dies leaving C surviving. A sues C for a debt of Rs. 1,500 due in his separate character. C may set off the debt of Rs. 1,000.

112. Except as provided in the last preceding section, no written statement shall be received after the first hearing of the suit :

No written statement to be received after first hearing.

Provisos.

Provided that the Court may at any time require a written statement, or additional written statement, from any of the parties, and fix a time for presenting the same :

Provided also that a written statement, or an additional written statement, may, with the permission of the Court, be received at any time for the purpose of answering written statements so required and presented.

113. If any party from whom a written statement is so required fails to present the same within the time fixed by the Court, the Court may pass a decree against him, or make such order in relation to the suit as it thinks fit.

Procedure when party fails to present written statement called for by Court.

Frame of written statements.

114. Written statements shall be as brief as the nature of the case admits, and shall not be argumentative, but shall be confined as much as possible to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he either admits or believes he will be able to prove.

Every such statement shall be divided into paragraphs, numbered conse-

(Part I.—Of Suits in General. Chapter IX.—Of the Examination of the Parties by the Court. Secs. 115-118.)

cutively, and each paragraph containing as nearly as may be a separate allegation.

115. Written statements shall be signed and verified in the manner hereinbefore provided for signing and verifying plaints^a, and no written statement shall be received unless it be so signed and verified.

Written statements to be signed and verified.

116. If it appears to the Court that any written statement, whether called for by the Court or spontaneously tendered, is argumentative or prolix, or contains matter irrelevant to the suit, the Court may amend it then and there, or may, by an order to be endorsed thereon, reject the same, or return it to the party by whom it was made for amendment within a time to be fixed by the Court, imposing such terms as to costs or otherwise as the Court thinks fit.

Power of Court as to argumentative, prolix or irrelevant written statements.

When any amendment is made under this section, the Judge shall attest it by his signature.

Attestation of amendments.

When a statement has been rejected under this section, the party making it shall not present another written statement, unless it be expressly called for or allowed by the Court.

Effect of rejection.

CHAPTER IX.^b

OF THE EXAMINATION OF THE PARTIES BY THE COURT.

117. At the first hearing of the suit, the Court shall ascertain from the defendant or his pleader whether he admits or denies the allegations of fact made in the plaint, and shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the written statement (if any) of the opposite party, and as are not expressly or by necessary implication admitted or denied by the party against whom they are made. The Court shall record such admissions and denials.

Ascertainment whether allegations in plaint and written statements admitted or denied.

118. At the first hearing of the suit, or at any subsequent hearing, any party appearing in person or present in Court, or any person able to answer any material questions relating to the suit by whom such party or his pleader is accompanied, may be examined orally by the Court; and the Court may, if

Oral examination of party, or companion of himself or his pleader.

^a See sections 51 and 52, *supra*.

^b This chapter, except section 119, extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

Section 119 does not apply to the chartered High Courts or to the Panjáb Chief Court in the exercise of their original civil jurisdiction—see section 638, *infra*, and Act XVIII of 1884, section 16 (2).

(Part I.—Of Suits in General. Chapter X.—Of Discovery and of the Admission, Inspection, Production, Impounding and Return of Documents. Secs. 119-122.)

it thinks fit, put in the course of such examination questions suggested by either party.

Substance of examination to be written.

119. The substance of the examination shall be reduced to writing by the Judge, and shall form part of the record.

Consequence of refusal or inability of pleader to answer.

120. If the pleader of any party who appears by a pleader refuses or is unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day, and direct that such party shall appear in person on such day.

If such party fails without lawful excuse to appear in person on the day so appointed, the Court may pass a decree against him, or make such order in relation to the suit as it thinks fit.

CHAPTER X.^a

OF DISCOVERY AND OF THE ADMISSION, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS.

Power to deliver interrogatories.

121. Any party may at any time, by leave of the Court deliver through the Court interrogatories^b in writing for the examination of the opposite party, or, where there are more opposite parties than one, any one or more of such parties, with a note at the foot thereof stating which of such interrogatories each of such persons is required to answer :

Provided that no party shall deliver more than one set of interrogatories to the same person without the permission of the Court, and that no defendant shall deliver interrogatories for the examination of the plaintiff unless such defendant has previously tendered a written statement and such statement has been received and placed on the record.

Service of interrogatories.

122. Interrogatories delivered under section 121 shall be served on the pleader (if any) of the party interrogated, or in the manner hereinbefore provided for the service of summons, and the provisos of sections 79, 80, 81 and 82 shall, in the latter case, apply so far as may be practicable.

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule. Sections 121 to 127 and 129 are not applicable to suits for recovery of rent in Bengal—see Act VIII of 1885, section 148, clause (a), and section 1.

^b For forms, see Schedule IV, No. 123, *infra* a.

(Part I.—Of Suits in General. Chapter X.—Of Discovery and of the Admission, Inspection, Production, Impounding and Return of Documents. Secs. 123-128.)

123. The Court, in adjusting the costs of the suit, shall, at the instance of any party, inquire or cause inquiry to be made into the propriety of delivering such interrogatories; and if it thinks that such interrogatories have been delivered unreasonably, vexatiously or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be borne by the party in fault.

Inquiry into propriety of exhibiting interrogatories.

124. If any party to a suit be a body corporate or a Joint-stock company, whether incorporated or not, or any other body of persons empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply to the Court for an order allowing him to deliver interrogatories to any member or officer of such corporation, company or body, and an order may be made accordingly.

Service of interrogatories on officer of corporation or company.

125. Any party called upon to answer interrogatories, whether by himself or by any such member or officer, may refuse to answer any interrogatory on the ground that it is irrelevant, or is not put *bonâ fide* for the purposes of the suit, or that the matter inquired after is not sufficiently material at that stage of the suit, or on any other like ground.

Power to refuse to answer interrogatories as irrelevant, &c.

126. Interrogatories shall be answered by affidavit to be filed in Court within ten days from the service thereof or within such further time as the Judge may allow.

Time for filing affidavit in answer.

127. If any person interrogated omits or refuses to answer, or answers insufficiently, any interrogatory, the party interrogating may apply to the Court for an order requiring him to answer or to answer further, as the case may be. And an order may be made requiring him to answer or to answer further either by affidavit or by *virâ voce* examination as the Judge may direct: provided that the Judge shall not require an answer to any interrogatory which in his opinion need not have been answered under section 125.

Procedure where party omits to answer sufficiently.

128. Either party may, by a notice through the Court, within a reasonable time not less than ten days before the hearing, require the other party to admit (saving all just exceptions to the admissibility of such document in evidence) the genuineness of any document material to the suit.

Power to demand admission of genuineness of documents.

The admission shall also be made in writing signed by the other party or his pleader and filed in Court.

If such notice be not given, no costs of proving such document shall be allowed, unless the Judge otherwise orders.

If such notice is not complied with within four days after its being served,

(Part I.—Of Suits in General. Chapter X.—Of Discovery and of the Admission, Inspection, Production, Impounding and Return of Documents. Secs. 129-133.)

and the Judge thinks it reasonable that the admission should have been made, the party refusing shall bear the expense of proving such document, whatever may be the result of the suit.

Power to
order dis-
covery of
document.

129. The Court may, at any time during the pendency therein of any suit, order any party to the suit to declare by affidavit all the documents which are or have been in his possession or power relating to any matter in question in the suit, and any party to the suit may, at any time before the first hearing, apply to the Court for a like order.

Affidavit in
answer to
such order.

Every affidavit made under this section shall specify which, if any, of the documents therein mentioned the declarant objects to produce, together with the grounds of such objection.

Power to
order pro-
duction of
documents
during suit.

130. The Court may, at any time during the pendency therein of any suit, order the production by any party thereto of such of the documents in his possession or power relating to any matter in question in such suit or proceeding as the Court thinks right; and the Court may deal with such documents when produced in such manner as appears just.

Notice to
produce for
inspection
documents
referred to in
plaint, &c.

131. Any party to a suit may at any time before or at the hearing thereof give notice^a through the Court to any other party to produce any specified document for the inspection of the party giving such notice or of his pleader, and to permit such party or pleader to take copies thereof.

Consequence
of non-
compliance
with such
notice.

No party failing to comply with such notice shall afterwards be at liberty to put any such document in evidence on his behalf in such suit, unless he satisfies the Court that such document relates only to his own title, or that he had some other and sufficient cause for not complying with such notice.

Party receiv-
ing such
notice to
deliver notice
when and
where
inspection
may be had.

132. The party to whom such notice is given shall, within ten days from the receipt thereof, deliver through the Court to the party giving the same a notice stating a time within three days from such delivery at which the documents, or such of them as he does not object to produce, may be inspected at his pleader's office or some other convenient place, and stating which, if any, of the documents he objects to produce, and on what grounds.

Application
for order of
inspection.

133. If any party served with notice under section 131 omits to give notice under section 132 of the time for inspection, or objects to give inspection, or names an inconvenient place for inspection, the party desiring it may apply to the Court for an order of inspection.

^a For form, see Schedule IV, No. 121, *infra*.

(Part I.—Of Suits in General. Chapter X.—Of Discovery and of the Admission, Inspection, Production, Impounding and Return of Documents. Secs. 134-137.)

134. Except in the case of documents referred to in the plaint, written statement or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit showing (a) of what documents inspection is sought, (b) that the party applying is entitled to inspect them, and (c) that they are in the possession or power of the party against whom the application is made.

Application to be founded on affidavit.

135. If the party from whom discovery of any kind or inspection is sought objects to the same or any part thereof, and if the Court is satisfied that the right to such discovery or inspection depends on the determination of any issue or question in dispute in the suit, or that for any other reason it is desirable that any such issue or question should be determined before deciding upon the right to the discovery or inspection, the Court may order that the issue or question be determined first and reserve the question as to the discovery or inspection.

Power to order issue or question on which right to discovery depends to be first determined.

136. If any party fails to comply with any order under this chapter, to answer interrogatories or for discovery, production or inspection, which has been duly served, he shall, if a plaintiff, be liable to have his suit dismissed for want of prosecution, and if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not appeared and answered;

Consequences of failure to answer or give inspection.

and the party interrogating or seeking discovery, production or inspection may apply to the Court for an order to that effect, and the Court may make such order accordingly.

Any party failing to comply with any order under this chapter, to answer interrogatories or for discovery, production or inspection, which has been served personally upon him, shall also be deemed guilty of an offence under section 188 of the Indian Penal Code.

137. The Court may of its own accord, and may in its discretion upon the application of any of the parties to a suit, send for, either from its own records or from any other Court, the record of any other suit or proceeding, and inspect the same.

Court may send for papers from its own records or from other Courts.

Every application made under this section shall (unless the Court otherwise directs) be supported by an affidavit of the applicant or his pleader, shewing how the record is material to the suit in which the application is made, and that the applicant cannot without unreasonable delay or expense obtain a duly authenticated copy of the record or of such portion thereof

(Part I.—Of Suits in General Chapter X.—Of Discovery and of the Admission, Inspection, Production, Impounding and Return of Documents. Secs. 138-141.)

as the applicant requires, or that the production of the original is necessary for the purposes of justice.

Nothing contained in this section shall be deemed to enable the Court to use in evidence any document which, under the Indian Evidence Act, 1872, ¹⁰ would be inadmissible in the suit.

Documentary evidence to be in readiness at first hearing.

138. The parties or their pleaders shall bring with them and have in readiness at the first hearing of the suit, to be produced when called for by the Court, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in Court, and all documents which the Court at any time before such hearing has ordered to be produced.

Effect of non-production of documents

139. No documentary evidence in the possession or power of any party which should have been, but has not been, produced in accordance with the requirements of section 138, shall be received at any subsequent stage of the proceedings unless good cause be shown to the satisfaction of the Court for the non-production thereof. And the Judge receiving any such evidence shall record his reasons for so doing.

Documents to be received by Court.

140. The Court shall receive the documents respectively produced by the parties at the first hearing, provided that the documents produced by each party be accompanied by an accurate list thereof prepared in such form as the High Court may from time to time direct.

Rejection of irrelevant or inadmissible documents.

The Court may at any stage of the suit reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

No documents to be placed on record unless proved. Proved documents to be marked and filed.

141. No document shall be placed on the record unless it has been proved or admitted in accordance with the law of evidence^a for the time being in force. Every document so proved or admitted shall be endorsed with the number and title of the suit, the name of the person producing it, and the date on which it was produced. The Judge shall then endorse with his own hand a statement that it was proved against or admitted by (as the case may be) the person against whom it is used. The document shall then be filed as part of the record:

Entries in shop-books

Provided that, if the document be an entry in a shop-book or other book, the party on whose behalf such book is produced may furnish a copy of the

^a See Act I of 1872.

(Part I.—Of Suits in General. Chapter XI.—Of the Settlement of Issues.
Secs. 142-146.)

entry, which may be endorsed as aforesaid, and shall be filed as part of the record, and the Court shall mark the entry, and shall then return the book to the person producing it.

All documents produced at the first hearing and not so proved or admitted shall be returned to the parties respectively producing them.

142. When a document so proved or admitted is relied on as evidence by either party, but the Court considers it inadmissible, it shall be further endorsed with the addition of the word "rejected," and the endorsement shall be signed by the Judge.

Rejected documents to be marked,

The document shall then be returned to the party who produced it.

and returned.

143. Notwithstanding anything contained in sections 62, 141 and 142, the Court may, if it sees sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the Court, for such period and subject to such conditions as the Court thinks fit.

Court may order any document to be impounded.

144. In suits in which an appeal is not allowed, when the suit has been disposed of, and in suits in which an appeal is allowed, when the time for preferring an appeal from the decree has elapsed, or, if an appeal has been preferred, then after the appeal has been disposed of, any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit, and placed on the record, shall, unless the document is impounded under section 143, be entitled to receive back the same :

When document admitted in evidence may be returned.

Provided that a document may be returned at any time before either of such events, if the person applying for such return delivers to the proper officer a certified copy of such document to be substituted for the original :

When document may be returned before time limited.

Provided also that no document shall be returned which, by force of the decree, has become void or useless.

Certain documents not to be returned.

On the return of a document which has been admitted in evidence, a receipt shall be given by the party receiving it, in a receipt-book to be kept for the purpose.

Receipt to be given for returned document.

145. The provisions herein contained as to documents shall, so far as may be, apply to all other material objects producible as evidence.

Provisions as to documents applied to material objects.

CHAPTER XI.

OF THE SETTLEMENT OF ISSUES.

146. Issues arise when a material proposition of fact or law is affirmed by one party and denied by the other.

Framing of issues.

(Part I.—Of Suits in General. Chapter XI.—Of the Settlement of Issues.
Secs. 147-149.)

Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue.

Each material proposition affirmed by one party and denied by the other must form the subject of a distinct issue.

Issues are of two kinds : (a) issues of fact, (b) issues of law.

At the first hearing of the suit, the Court shall, after reading the plaint and the written statements, if any, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to the Court to depend.

When issues both of law and of fact arise in the same suit, and the Court is of opinion that the case may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

Nothing in this section requires the Court to frame and record issues when the defendant at the first hearing of the suit makes no defence.

147. The Court may frame the issues from all or any of the following materials:—

- (a) allegations made on oath by the parties, or by any persons present on their behalf, or made by the pleaders of such parties or persons;
- (b) allegations made in the plaint or in the written statements (if any) tendered in the suit, or in answer to interrogatories delivered in the suit;
- (c) the contents of documents produced by either party.

148. If the Court be of opinion that the issues cannot be correctly framed without the examination of some person not before the Court, or without the inspection of some document not produced in the suit, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may (subject to the rules contained in the Indian Evidence Act) compel the attendance of any person or the production of any document by the person in whose hands it may be, by summons or other process.

149. The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it thinks fit, and all such amend-

Allegations from which issues may be framed.

Court may examine witnesses or documents before framing issues.

Power to amend, add

(Part I.—Of Suits in General. Chapter XII.—Disposal of the Suit at the first Hearing. Secs. 150-152.)

ments or additional issues as may be necessary for determining the controversy and strike out issues, between the parties shall be so made or framed.

The Court may also, at any time before passing a decree, strike out any issues that appear to it to be wrongly framed or introduced.

150.* When the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing—

Questions of fact or law may by agreement be stated in form of issue.

- (a) that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court, or in such manner as the Court may direct, shall be paid by one of the parties to the other of them, or that one of them be declared entitled to some right or subject to some liability specified in the agreement,
- (b) that upon such finding some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or as that other may direct, or
- (c) that upon such finding one or more of the parties shall do or abstain from doing some particular act, specified in the agreement, and relating to the matter in dispute.

151. If the Court be satisfied, after making such inquiry as it deems proper,

Court, if satisfied that agreement was executed in good faith may pronounce judgment.

- (a) that the agreement was duly executed by the parties,
- (b) that they have a substantial interest in the decision of such question as aforesaid, and
- (c) that the same is fit to be tried and decided,

it may proceed to record and try the issue, and state its finding or opinion thereon in the same manner as if the issue had been framed by the Court ;

and may, upon the finding or decision on such issue, pronounce judgment according to the terms of the agreement ;

and upon the judgment so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

CHAPTER XII.

DISPOSAL OF THE SUIT AT THE FIRST HEARING.

152. If at the first hearing of a suit it appears that the parties are not at

If parties not at issue on

* See Order XXXIV in the first Schedule to 38 & 39 Vic., cap. 77.

(Part I.—Of Suits in General. Chapter XIII.—Of Adjournments. Secs. 153-156.)

any question of law or fact.

issue on any question of law or of fact, the Court may at once pronounce judgment.

If one of several defendants be not at issue with plaintiff.

153. Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or fact, the Court may at once pronounce judgment for or against such defendant, and the suit shall proceed only against the other defendants.

If parties at issue on questions of law or fact.

154. When the parties are at issue on some question of law or of fact, and issues have been framed by the Court as hereinbefore provided, if the Court be satisfied that no further argument or evidence than the parties can at once supply is required upon such of the issues as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issues,

Court may determine issue, and pronounce judgment.

and, if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons has been issued for the settlement of issues only or for the final disposal of the suit:

Provided that, where the summons has been issued for the settlement of issues only, the parties or their pleaders are present and none of them object.

If the finding is not sufficient for the decision, the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence, or for such further argument, as the case requires.

If either party fails to produce his evidence, Court may pronounce judgment or adjourn suit.

155. If the summons has been issued for the final disposal of the suit, and either party fails without sufficient cause to produce the evidence on which he relies, the Court may at once pronounce judgment,

or may, if it thinks fit, after framing and recording issues under section 146, adjourn the suit for the production of such evidence as may be necessary to its decision upon such issues.

CHAPTER XIII.

OF ADJOURNMENTS.

Court may grant time, and adjourn hearing.

156. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties or to any of them, and may from time to time adjourn the hearing of the suit.

Costs of adjournment

In all such cases the Court shall fix a day for the further hearing of the

* Section 155, first paragraph, and Chapter XIII extend to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part I.—Of Suits in General. Chapter XIV.—Of the Summoning and Attendance of Witnesses. Secs. 157-160.)

suit, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment:

Provided that, when the hearing of evidence has once begun, the hearing of the suit shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the hearing to be necessary for reasons to be recorded by the Judge with his own hand.

157. If, on any day to which the hearing of the suit is adjourned, the parties or any of them fail to appear, the Court may proceed to dispose of the suit in one of the modes directed in that behalf by Chapter VII, or make such other order as it thinks fit.

Procedure if parties fail to appear on day fixed.

158. If any party to a suit to whom time has been granted fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the Court may, notwithstanding such default, proceed to decide the suit forthwith.

Court may proceed notwithstanding either party fails to produce evidence, &c.

CHAPTER XIV.^a

OF THE SUMMONING AND ATTENDANCE OF WITNESSES.

159. The parties may, after the summons has been delivered for service on the defendant, whether it be for the settlement of issues only, or for the final disposal of the suit, obtain, on application to the Court or to such officer as it appoints in this behalf, before the day fixed for such settlement or disposal as the case may be, summonses^b to persons whose attendance is required either to give evidence or to produce documents.

Summons to attend to give evidence or produce documents.

160.^c The party applying for a summons shall, before the summons is granted and within a period to be fixed by the Court, pay into court such a sum of money as appears to the Court to be sufficient to defray the travelling and other expenses of the person summoned, in passing to and from the court in which he is required to attend, and for one day's attendance.

Expenses of witnesses to be paid into court on applying for summons.

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

The chapter applies to all persons required to give evidence or to produce documents in any proceeding under the Code—see section 650, *infra*.

^b For forms, see Schedule IV, Nos. 125 and 126, *infra*.

^c This section does not apply to the Chartered High Courts in the exercise of their original civil jurisdiction—see section 638, *infra*.

(Part I.—Of Suits in General. Chapter XIV.—Of the Summoning and Attendance of Witnesses. Secs. 161-165.)

Scale of expenses.

If the Court be subordinate to a High Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) laid down by competent authority.

Tender of expenses to witness.
Procedure where insufficient sum paid in.

161. The sum so paid into court shall be tendered to the person summoned, at the time of serving the summons, if it can be served personally.

162. If it appear to the Court or to such officer as it appoints in this behalf that the sum paid into court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the person summoned as appears to be necessary on that account; and, in case of default in payment, may order such sum to be levied by attachment and sale of the moveable property of the party obtaining the summons; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Expenses if witness detained more than one day.

If it be necessary to detain the person summoned for a longer period than one day, the Court may, from time to time, order the party at whose instance he was summoned to pay into court such sum as is sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order such sum to be levied by attachment and sale of the moveable property of the party at whose instance he was summoned; or the Court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Time, place and purpose of attendance to be specified in summons.

163. Every summons¹ for the attendance of a person to give evidence or produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned is called on to produce shall be described in the summons with reasonable accuracy.

Summons to produce document.

164. Any person may be summoned to produce a document, without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced instead of attending personally to produce the same.

Power to require persons present in Court to give evidence.

165. Any person present in court may be required by the Court to give evidence or to produce any document then and there in his actual possession or power.

¹ For forms, see Schedule IV, Nos. 125 and 126, *infra*.

Part I.—Of Suits in General Chapter XIV.—Of the Summoning and Attendance of Witnesses. Secs. 166-170.)

166. Every summons to a person to give evidence or produce a document shall be served as nearly as may be in manner hereinbefore prescribed for the service of summons on the defendant ; and the rules contained in Chapter VI as to proof of service shall apply in the case of all summonses served under this section.

Summons
how served.

167. The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

Time for
serving sum-
mons.

168. If the serving-officer certify to the Court that the summons for the attendance of a person, either to give evidence or to produce a document, cannot be served, the Court shall examine the serving-officer on oath touching the non-service ;

Attachment
of property
of absconding
witness.

and upon being satisfied that such evidence or production is material, and that the person for whose attendance the summons has been issued is absconding or keeping out of the way for the purpose of avoiding the service of the summons, may issue a proclamation requiring him to attend to give evidence, or produce the document, at a time and place to be named therein ; and a copy of such proclamation shall be affixed on the outer door of the house in which he ordinarily resides.

If he does not attend at the time and place named in such proclamation, the Court may in its discretion, at the instance of the party on whose application the summons was issued, make an order for the attachment of the property of the person whose attendance is required, to such amount as the Court thinks fit, not exceeding the amount of the costs of attachment and of the fine which may be imposed under section 170 :

Provided that no Court of Small Causes shall make an order for the attachment of immoveable property.

169. If, on the attachment of his property, such person appears and satisfies the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order as to the costs of the attachment as it thinks fit.

If witness
appears at-
tachment
may be with-
drawn.

170. If such person does not appear, or, appearing, fails to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at

Procedure if
witness fails
to appear.

(Part I.—Of Suits in General. Chapter XIV.—Of the Summoning and Attendance of Witnesses. Secs. 171-174.)

the time and place named therein, the Court may impose upon him such fine not exceeding five hundred rupees as the Court thinks fit, having regard to his condition in life and all the circumstances of the case, and may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of the said fine, if any :

Provided that, if the person whose attendance is required pays into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

Court may of its own accord summon as witnesses strangers to suit.

171. Subject to the rules of this Code as to attendance and appearance and to the provisions of the Indian Evidence Act, 1872, if the Court at any time I of 1872. thinks it necessary to examine any person other than a party to the suit, and not named as a witness by a party to the suit, the Court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed, and may examine him as a witness or require him to produce such document.

Duty of persons summoned to give evidence or produce document.

172. Subject as last aforesaid, whoever is summoned to appear and give evidence in a suit must attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document must either attend to produce it, or cause it to be produced, at such time and place.

When they may depart.

173. No person so summoned and attending shall depart unless and until (a) he has been examined or has produced the document and the Court has risen, or (b) he has obtained the Court's leave to depart.

Consequences of failure to comply with summons.

174. If any person on whom a summons to give evidence or produce a document has been served fails to comply with the summons, or if any person so summoned and attending departs in contravention of section 173, the Court may order him to be arrested and brought before the Court :

Provided that no such order shall be made when the Court has reason to believe that the person so failing had a lawful excuse for such failure.

When any person so brought before the Court fails to satisfy it that he had a lawful excuse for not complying with the summons, the Court may sentence him to fine not exceeding five hundred rupees.

EXPLANATION.—Non-payment or non-tender of a sum sufficient to defray the expenses mentioned in section 160 shall be deemed a lawful excuse within the meaning of this section.

Procedure when witness apprehended.

If any person so apprehended and brought before the Court cannot, owing to the absence of the parties or any of them, give the evidence or produce the

(Part I.—Of Suits in General. Chapter XV.—Of the Hearing of the Suit and Examination of Witnesses. Secs. 175-179.)

document which he has been summoned to give or produce, the Court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and, on such bail or security being given, may release him.

hended cannot give evidence or produce document.

175. If any person so failing to comply with a summons absconds or keeps out of the way, so that he cannot be apprehended and brought before the Court, the provisions of sections 168, 169 and 170 shall, *mutatis mutandis*, apply.

Procedure when witness absconds.

176. No one shall be bound to attend in person to give evidence or to be examined in Court unless he resides—

Persons bound to attend in person.

- (a) within the local limits of its ordinary original jurisdiction, or
- (b) without such limits and at a place less than fifty or (where there is railway-communication for five-sixths of the distance between the place where he resides and the place where the Court is situate) two hundred miles distance from the Court-house.

177. If any party to a suit present in Court refuses, without lawful excuse, when required by the Court, to give evidence or to produce any document then and there in his actual possession or power, the Court may in its discretion either pass a decree against him, or make such order in relation to the suit as the Court thinks fit.

Consequence of refusal of party to give evidence when called on by Court.

178. Whenever any party to a suit is required to give evidence or to produce a document, the rules as to witnesses contained in this Code shall apply to him so far as they are applicable.

Rules as to witnesses apply to parties summoned.

CHAPTER XV.^a

OF THE HEARING OF THE SUIT AND EXAMINATION OF WITNESSES.

179. On the day fixed for the hearing of the suit, or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to prove.

Statement and production of evidence by party having right to begin.

^a This chapter, except sections 182 to 188 (both inclusive), extends to Provincial Courts of Small Causes—see section 5 and the second Schedule.

Sections 182 to 185 (both inclusive), 187, 189, 190, 191 and 192 (so far as it relates to the manner of taking evidence) do not apply to the chartered High Courts or to the Panjáb Chief Court in the exercise of their original civil jurisdiction—see section 688, *infra*, and Act XVIII of 1884, section 16 (2).

The provisions of this chapter relating to witnesses apply to all persons required to give evidence or to produce documents in any proceeding under the Code—see section 650, *infra*.

(Part I.—Of Suits in General. Chapter XV.—Of the Hearing of the Suit and Examination of Witnesses. Secs. 180-184.)

Rules as to
right to
begin.

EXPLANATION.—The plaintiff has the right to begin unless where the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

Statement and
production of
evidence by
other party.
Reply by
party begin-
ning.

180. The other party shall then state his case and produce his evidence (if any).

The party beginning is then entitled to reply.

Where there are several issues, the burden of proving some of which lies on the other party, the party beginning may, at his option, either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the other party. In the latter case, the party beginning may produce evidence on those issues after the other party has produced all his evidence, and the other party may then reply specially on the evidence so produced by the party beginning; but the party beginning will then be entitled to reply generally on the whole case.

Witnesses to
be examined
in open court.

181.^a The evidence of the witnesses in attendance shall be taken orally in open court in the presence, and under the personal direction and superintendence, of the Judge.

How evidence
shall be taken
in appealable
cases.

182.^{a, b} In cases in which an appeal is allowed, the evidence of each witness shall be taken down in writing, in the language of the Court,^c by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties or their pleaders, and the Judge shall, if necessary, correct the same and shall sign it.

When deposi-
tion to be
interpreted.

183.^a If the evidence is taken down under section 182 in a language different from that in which it was given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it was given.

Memoran-
dum when
evidence not
taken down
by Judge.

184.^{a, d} In cases in which the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to

^a Sections 181 to 180 have been modified in Oudh—see Act XVIII of 1876, section 19, and section 3 of this Act.

^b For modified section substituted for the Central Provinces, see Act II of 1879, section 2, and section 3 of this Act

^c As regards British Burma, see Act XVII of 1875, section 20, and section 3 of this Act.

^d Repealed in the Central Provinces—see Act II of 1879, section 2, and section 3 of this Act.

(Part I.—Of Suits in General. Chapter XV.—Of the Hearing of the Suit and Examination of Witnesses. Secs. 185-191.)

make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

185.^{a, b} Where English is not the language of the Court, but all the parties to the suit who appear in person, and the pleaders of such as appear by pleaders, do not object to have such evidence as is given in English taken down in English, the Judge may so take it down with his own hand.

When evidence may be taken in English.

186.^a The Court may, of its own motion, or on the application of any party or his pleader, take down, or cause to be taken down, any particular question and answer, or any objection to any question, if there appear any special reason for so doing.

Any particular question and answer may be taken down.

187.^a If any question put to a witness be objected to by a party or his pleader, and the Court allows the same to be put, the Judge shall take down the question, the answer, the objection, and the name of the person making it, together with the decision of the Court thereon.

Questions objected to and allowed by Court.

188.^a The Court may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

Remarks on demeanour of witnesses.

189.^{a, b, c, d} In cases in which an appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what he deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

Memorandum of evidence in unappealable cases.

190.^{a, e} If the Judge be rendered unable to make a memorandum as above required by this chapter, he shall cause the reason of such inability to be recorded, and shall cause the memorandum to be made in writing from his dictation in open court.

Judge unable to make such memorandum to record reason of his inability.

Every memorandum so made shall form part of the record.

191.^e Where the Judge taking down any evidence, or causing any memorandum to be made under this chapter, dies or is removed from the Court

Power to deal with evidence taken down by Judge removed before conclusion of suit.

^a Sections 181 to 190 have been modified in Oudh—see Act XVIII of 1876, section 19, and section 3 of this Act.

^b Repealed in the Central Provinces—see Act II of 1879, section 2, and section 3 of this Act.

^c This section is applicable in suits for recovery of rent in Bengal, whether an appeal is allowed or not—see Act VIII of 1885, section 148, clause (f), and section 1.

^d For power to direct that evidence in suits between landlord and tenant in agricultural villages in Ajmer and Merwara be taken in the form prescribed by this section, see the Ajmer Courts Regulation, I of 1877, section 29, and section 3 of this Act.

^e For modified sections substituted for the Central Provinces, see Act II of 1879, section 2, and section 3 of this Act.

(Part I.—Of Suits in General. Chapter XVI.—Of Affidavits. Secs.
192-195.)

before the conclusion of the suit, his successor may, if he thinks fit, deal with such evidence or memorandum as if he himself had taken it down or caused it to be made.

Power to examine witness immediately.

192. If a witness be about to leave the jurisdiction of the Court, or if other sufficient cause be shown to the satisfaction of the Court why his evidence should be taken immediately, the Court may, upon the application of either party or of the witness, at any time after the institution of the suit, take the evidence of such witness in manner hereinbefore provided.

Where such evidence is not taken forthwith and in the presence of the parties, such notice as the Court thinks sufficient of the day fixed for the examination shall be given to the parties.

The evidence so taken shall be read over to the witness, and, if he admits it to be correct, shall be signed by him, and may then be read at any hearing of the suit.

Court may recall and examine witness.

193. The Court may, at any stage of the suit, recall any witness who has been examined and who has not departed in accordance with section 173, and may (subject to the provisions of the Indian Evidence Act, 1872) put such I of 1872. questions to him as the Court thinks fit.

CHAPTER XVI.

OF AFFIDAVITS.

Power to order any point to be proved by affidavit.

194. Any Court of first instance and any Appellate Court may at any time, for sufficient reason, order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing, on such conditions as the Court thinks reasonable:

Provided that where it appears to the Court that either party *bonâ fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

Power to order attendance of declarant for cross-examination.

195. Upon any application evidence may be given by affidavit, but the Court may, at the instance of either party, order the attendance, for cross-examination, of the declarant.

Such attendance shall be in Court, unless the declarant is exempted under this Code^a from personal appearance in court, or the Court otherwise directs.

^a See sections 640 & 611, *infra*.

(Part I.—Of Suits in General. Chapter XVII.—Of Judgment and Decree.
Secs. 196-201)

196. Affidavits shall be confined to such facts as the declarant is able of his own knowledge to prove, except on interlocutory applications, on which statements of his belief may be admitted, provided that reasonable grounds thereof be set forth.

Matters to which affidavits shall be confined.

The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter, or copies of, or extracts from, documents, shall (unless the Court otherwise directs) be paid by the party producing the same.

197. In the case of any affidavit under this Code—

(a) any Court or Magistrate, or

(b) any officer whom a High Court may appoint in this behalf, or

(c) any officer appointed by any other Court which the Local Government has generally or specially empowered in this behalf,

Oath of declarant by whom to be administered.

may administer the oath of the declarant.

CHAPTER XVII.^a

OF JUDGMENT AND DECREE.

198. The Court, after the evidence has been duly taken and the parties have been heard either in person or by their respective pleaders or recognized agents, shall pronounce judgment in open court, either at once or on some future day, of which due notice shall be given to the parties or their pleaders.

Judgment when pronounced.

199. A Judge may pronounce a judgment written by his predecessor, but not pronounced.

Power to pronounce judgment written by Judge's predecessor.

200. The judgment shall be written in the language of the Court, or in English, or in the Judge's mother-tongue.

Language of judgment.

201. Whenever the judgment is written in any language other than that of the Court, the judgment shall, if any of the parties so require, be translated into the language of the Court, and the translation shall also be signed by the Judge or such officer as he appoints in this behalf.

Translation of judgment.

^a This chapter, except sections 204, 207 and 211 to 215 (both inclusive), extends to Provincial Courts of Small Causes—see section 5 and the second Schedule.

Sections 198 to 206 (both inclusive) do not apply to the chartered High Courts in the exercise of their original civil jurisdiction—see section 638, *infra*.

Sections 198 and 200 to 204 (both inclusive) do not apply to the Panjáb Chief Court in the exercise of its original civil jurisdiction—see Act XVIII of 1884, section 16 (2).

(Part I.—Of Suits in General. Chapter XVII.—Of Judgment and Decree.
Secs. 202-208.)

Judgment to
be dated and
signed.

202. The judgment shall be dated and signed by the Judge in open court at the time of pronouncing it, and shall not be altered or added to, save to correct verbal errors or to supply some accidental defect not affecting a material part of the case, or on review.

Judgments of
Small Cause
Courts.

203. The judgments of the Courts of Small Causes need not contain more than the points for determination and the decision thereupon.

Judgments of
other Courts.

The judgments of all other Courts shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision.

Court to state
its decision
on each issue.
Exception.

204. In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons thereof, upon each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Date of
decree.

205. The decree shall bear date the day on which the judgment was pronounced; and, when the Judge has satisfied himself that the decree has been drawn up in accordance with the judgment, he shall sign the decree.

Contents of
decree.

206. The decree must agree with the judgment: it shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claims, as stated in the register,^a and shall specify clearly the relief granted or other determination of the suit.^b

The decree shall also state the amount of costs incurred in the suit, and by what parties and in what proportions such costs are to be paid.

Power to
amend decree.

If the decree is found to be at variance with the judgment, or if any clerical or arithmetical error be found in the decree, the Court shall, of its own motion or on that of any of the parties, amend the decree so as to bring it into conformity with the judgment or to correct such error: provided that reasonable notice has been given to the parties or their pleaders of the proposed amendment.

Decree for
recovery of
immoveable
property.

207. When the subject-matter of the suit is immoveable property, and such property is identified by boundaries or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers.

Decree for
delivery of
moveable
property.

208. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

^a See section 58, *supra*.

^b As to decrees for enhancement of rent and decrees for ejectment in Bengal, see Act VIII of 1885, sections 154 and 155 and section 1.

(Part I.—Of Suits in General. Chapter XVII.—Of Judgment and Decree.
Secs. 209-212.)

209. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree,^a order interest at such rate as the Court deems reasonable to be paid on the principal sum adjudged, from the date of the suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the suit, with further interest at such rate as the Court deems reasonable on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the Court thinks fit.

In suits for money, decree may order certain interest to be paid on principal sum adjudged.

210. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments, with or without interest.

Decree may direct payment by instalments.

And after the passing of any such decree the Court may, on the application^b of the judgment-debtor and with the consent of the decree-holder, order that the amount decreed be paid by instalments on such terms as to the payment of interest, the attachment of the property of the defendant, or the taking of security from him, or otherwise, as it thinks fit.

Order, after decree, for payment by instalments.

Save as provided in this section and section 206, no decree shall be altered at the request of parties.

211. When the suit is for the recovery of possession of immoveable property yielding rent or other profit, the Court may provide in the decree for the payment of rent or mesne profits in respect of such property from the institution of the suit until the delivery of possession to the party in whose favor the decree is made, or until the expiration of three years from the date of the decree (whichever event first occurs), with interest thereupon at such rate as the Court thinks fit.

In suits for land, Court may decree payment of mesne profits with interest.

EXPLANATION.—“Mesne profits” of property mean those profits which the person in wrongful possession of such property actually received, or might with ordinary diligence have received, therefrom, together with interest on such profits.

212. When the suit is for the recovery of possession of immoveable property and for mesne profits which have accrued on the property during a period prior to the institution of the suit, and the amount of such profits is disputed, the Court may either determine the amount by the decree itself, or may pass a decree for the property and direct an inquiry into the amount of mesne profits, and dispose of the same on further orders.

Court may determine amount of mesne profits prior to suit, or may reserve inquiry.

^a For form of decree, see Schedule IV, No. 127, *infra*.

^b For limitation of such applications, see Act XV of 1877, Schedule II, Article 175.

(Part I.—Of Suits in General Chapter XVII.—Of Judgment and Decree.
Secs. 213-216.)

Administra-
tion-suit.

213. When the suit is for an account of any property and for its due administration under the decree of the Court, the Court, before making the decree,^a shall order^b such accounts and inquiries to be taken and made, and give such other directions, as it thinks fit.

^c In the administration by the Court of the property of any person who dies after this Code comes into force, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors and as to debts and liabilities proveable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being with respect to the estates of persons adjudged insolvent;

and all persons who, in any such case, would be entitled to be paid out of such property may come in under the decree for its administration, and make such claims against the same as they may respectively be entitled to by virtue of this Code.

Applications under section 265 of the Indian Contract Act, 1872, shall be deemed to be suits within the meaning of this section. 1X of 1872.

Suit to en-
force right
of pre-emp-
tion.

214. When the suit is to enforce a right of pre-emption in respect of a particular sale of property, and the Court finds for the plaintiff, if the amount of purchase-money has not been paid into court, the decree shall specify a day on or before which it shall be so paid, and shall declare that on payment of such purchase-money, together with the costs (if any) decreed against him, the plaintiff shall obtain possession of the property, but that if such money and costs are not so paid, the suit shall stand dismissed with costs.

Suit for dis-
solution of
partnership.

215. When the suit is for the dissolution of a partnership, the Court, before making its decree,^d may pass an order^e fixing the day on which the partnership shall stand dissolved, and directing such accounts to be taken and other acts to be done as it thinks fit.

Suit for
account be-
tween princi-
pal and
agent.

215A. When a suit is for an account of pecuniary transactions between a principal and agent, and in all other suits not hereinbefore provided for, where it is necessary, in order to ascertain the amount of money due to or from any party, that an account should be taken, the Court shall, before making its decree, pass an order directing such accounts to be taken as it thinks fit.

Decree when
set-off is
allowed

216. If the defendant has set off the amount of a debt against the claim of the plaintiff, and such set-off has been allowed, the decree shall state what

a, b For forms of decree and order, see Schedule IV, Nos. 130 and 131, *infra*.

c See 38 & 39 Vic., cap. 77, section 10.

d, e For forms of decree and order, see Schedule IV, Nos. 132 and 133, *infra*.

amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which appears to be due to either party.

The decree of the Court, with respect to any sum awarded to the defendant, shall have the same effect, and be subject to the same rules in respect of appeal or otherwise, as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

Effect of decree as to sum awarded to defendant.

217. Certified copies of the judgment and decree shall be furnished to the parties on application to the Court, and at their expense.

Certified copies of judgment and decree to be furnished.

CHAPTER XVIII.^a

OF COSTS.

218. When disposing of any application under this Code, the Court may give to either party the cost^b of such application, or may reserve the consideration of such costs for any future stage of the proceedings.

Costs of applications.

219. The judgment shall direct by whom the costs of each party are to be paid, whether by himself or by any other party to the suit, and whether in whole or in what part or proportion.

Judgment to direct by whom costs to be paid.

220. The Court shall have full power to give and apportion costs of every application and suit in any manner it thinks fit, and the fact that the Court has no jurisdiction to try the case is no bar to the exercise of such power:

Power of Court as to costs.

Provided that, if the Court directs that the costs of any application or suit shall not follow the event, the Court shall state its reasons in writing.

Every order relating to costs made under this Code and not forming part of a decree may be executed as if it were a decree for money.

221. The Court may direct that the costs payable to one party by another shall be set off against a sum which is admitted or is found in the suit to be due from the former to the latter.

Costs may be set off against sum admitted or found to be due.

222. The Court may give interest on costs at any rate not exceeding six per cent. per annum, and may direct that costs, with or without interest, be paid out of, or charged upon, the subject-matter of the suit.

Interest on costs. Payment of costs out of subject-matter.

^a This chapter, except sections 218 and 219, extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

^b *Sic.* Read 'costs.'

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Sec. 223.)

CHAPTER XIX.^a

OF THE EXECUTION OF DECREES.

A.—Of the Court by which Decrees may be executed.^b

Court by
which decree
may be exe-
cuted.

223. A decree may be executed either by the Court which passed it or by the Court to which it is sent for execution under the provisions hereinafter contained.

*A.—Of the
Court by
which Decrees
may be exe-
cuted.*

The Court which passed a decree may, on the application of the decree-holder, send it for execution to another Court,

- (a) if the person against whom the decree is passed actually and voluntarily resides or carries on business, or personally works for gain, within the local limits of the jurisdiction of such other Court, or
- (b) if such person has not property within the local limits of the jurisdiction of the Court which passed the decree sufficient to satisfy such decree, and has property within the local limits of the jurisdiction of such other Court, or
- (c) if the decree directs the sale of immoveable property situate outside the local limits of the jurisdiction of the Court which passed it, or
- (d) if the Court which passed the decree considers for any other reason, which it shall record in writing, that the decree should be executed by such other Court.

The Court which passed a decree may of its own motion send it for execution to any Court subordinate thereto.

The Court to which a decree is sent under this section for execution shall certify to the Court which passed it the fact of such execution, or, where the former Court fails to execute the same, the circumstances attending such failure.

If the decree has been passed in a case cognizable by a Court of Small Causes, and the Court which passed it wishes it to be executed in Calcutta, Madras, Bombay or Rangoon, such Court may send to the Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be, the copies and certificate respectively mentioned in clauses (a), (b) and (c) of section 224; and such Court of Small Causes shall thereupon execute the decree as if it had been passed by itself.

^a The rules contained in this chapter apply to all civil process for arrest, sale or payment—see section 649, *infra*; extended meaning of “Court which passed a decree”—*ibid.*

^b Sections 223 to 229 (both inclusive) extend to Provincial Courts of Small Causes—see section 5 and the second Schedule.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 224-228.)

A.—Of the Court by which Decrees may be executed.

If the Court to which a decree is to be sent for execution is situate within the same district as the Court which passed such decree, such Court shall send the same directly to the former Court. But, if the Court to which the decree is to be sent for execution is situate in a different district, the Court which passed it shall send it to the District Court of the district in which the decree is to be executed.

224. The Court sending a decree for execution under section 223 shall send—

- (a) a copy^a of the decree ;
- (b) a certificate^b setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of the Court by which it was passed, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unexecuted ; and
- (c) a copy of any order for the execution of the decree, and, if no such order has been made, a certificate to that effect.

Procedure when Court desires that its own decree shall be executed by another Court.

225. The Court to which a decree is so sent shall cause such copies and certificate to be filed, without any further proof of the decree or order for execution, or of the copies thereof, or of the jurisdiction of the Court which passed it, unless the former Court, for any special reasons to be recorded under the hand of the Judge, requires such proof.

Court receiving copies of decree, &c., to file same without proof.

226. When such copies are so filed, the decree or order may, if the Court to which it is sent be the District Court, be executed by such Court or by any subordinate Court which it directs to execute the same.

Execution of decree or order by Court to which it is sent.

227. If the Court to which the decree is sent for execution be a High Court, the decree shall be executed by such Court in the same manner as if it had been made by such Court in the exercise of its ordinary original civil jurisdiction.

Execution by High Court of decree transmitted by other Court.

228. The Court executing a decree sent to it under this chapter shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its orders in executing such decree shall be subject to the same rules in respect of appeal as if the decree has been passed by itself.

Powers of Court in executing transmitted decree.

Appeal from orders in executing such decrees.

^a For court-fee on such copies, see Act VII of 1870, Schedule I, Article 7.

^b For form, see Schedule IV, No. 134, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 229-231.)

Decrees of
Courts estab-
lished by
Government
of India in
Native
States.

229. A decree of any Court established by the authority of the Governor General in Council in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court by which it was made, may be executed in manner herein provided within the jurisdiction of any Court in British India.

*A—Of the
Court by
which Decrees
may be exe-
cuted.*

B.—Of Application for Execution.^a

Application
for execution.

230. When the holder of a decree desires to enforce it, he shall apply to the Court which passed the decree or to the officer, if any, appointed in this behalf, or if the decree has been sent under the provisions hereinbefore contained to another Court, then to such Court or to the proper officer thereof.

*B.—Of Ap-
plication for
Execution.*

The Court may in its discretion refuse execution at the same time against the person and property of the judgment-debtor.

Where an application to execute a decree for the payment of money or delivery of other property has been made under this section and granted, no subsequent application to execute the same decree shall be granted after the expiration of twelve years from any of the following dates (namely):—

- (a) the date of the decree sought to be enforced or of the decree (if any) on appeal affirming the same, or
- (b) where the decree or any subsequent order directs any payment of money, or the delivery of any property, to be made at a certain date—the date of the default in making the payment or delivering the property in respect of which the applicant seeks to enforce the decree.

Nothing in this section shall prevent the Court from granting an application for execution of a decree after the expiration of the said term of twelve years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within twelve years immediately before the date of the application.

Notwithstanding anything herein contained, proceedings may be taken to enforce any decree within three years after the passing of this Code, unless when the period prescribed for taking such proceedings by the law in force immediately before the passing of this Code shall have expired before the completion of the said three years.

Application
by joint
decree-holder.

231. If a decree has been passed jointly in favour of more persons than one, any one or more of such persons, or his or their representatives, may

^a Sections 230 to 236 (both inclusive) extend to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees
Secs. 232-235.)

*Of Ap-
plication for
execution.*

apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and the representative in interest of the deceased.

If the Court sees sufficient cause for allowing the decree to be executed on an application so made, it shall pass such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

232. If a decree be transferred by assignment in writing, or by operation of law, from the decree-holder to any other person, the transferee may apply^a for its execution to the Court which passed it; and, if that Court thinks fit, the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder:

Application
by transferee
of decree.

Provided as follows:—

- (a) where the decree has been transferred by assignment, notice in writing of such application shall be given to the transferor and the judgment-debtor, and the decree shall not be executed until the Court has heard their objections (if any) to such execution;
- (b) where a decree for money against several persons has been transferred to one of them, it shall not be executed against the others.

233. Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

Transferee
to hold
subject to
equities
enforceable
against
original
holder.

234. If a judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply to the Court which passed it to execute the same against the legal representative of the deceased.^b

If judgment-
debtor die
before
execution,
application
may be made
against his
representa-
tive.

Such representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the Court executing the decree may, of its own motion or on the application of the decree-holder, compel the said representative to produce such accounts as it thinks fit.

235. The application for the execution of a decree shall be in writing, verified by the applicant or by some other person proved to the satisfaction of

Contents of
application
for execution
of decree.

^a For a restriction in the case of decrees for rent in Bengal, see Act VIII of 1885, section 148 clause (h), and section 1.

^b As to istimrârdâr in Ajmer and Merwâr, see the Ajmer Land and Revenue Regulation, II of 1877, section 20, and section 3 of this Act.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 236-237.)

the Court to be acquainted with the facts of the case, and shall contain in a tabular form the following particulars^a (namely) :—

B.—Of Application for Execution.

- (a) the number of the suit ;
- (b) the names of the parties ;
- (c) the date of the decree ;
- (d) whether any appeal has been preferred from the decree ;
- (e) whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree ;
- (f) whether any and what previous applications have been made for execution of the decree and with what result ;
- (g) the amount of the debt or compensation, with the interest, if any, due upon the decree, or other relief granted thereby ;
- (h) the amount of costs, if any, awarded ;
- (i) the name of the person against whom the enforcement of the decree is sought ; and
- (j) the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property, or otherwise as the nature of the relief sought may require.

Application for attachment of moveable property to be accompanied with inventory.

Further particulars when application is for attachment of immoveable property.

236. Whenever an application is made for the attachment of any moveable property belonging to the judgment-debtor, but not in his possession, the decree-holder shall annex to the application an inventory of the property to be attached, containing a reasonably accurate description of the same.

237. Whenever an application is made for the attachment of any immoveable property belonging to the judgment-debtor, it shall contain at the foot a description of the property sufficient to identify it, and also a specification of the judgment-debtor's share or interest therein to the best of the belief of the applicant, and so far as he has been able to ascertain the same.

Every such description and specification shall be verified in manner hereinbefore provided for the verification of plaints.^b

^a An applicant for execution of decree for rent by attachment and sale of tenure or holding in Bengal must produce a statement showing certain particulars relating to the land—see Act VIII of 1885, section 162 and section 1.

^b See sections 51 and 52, *supra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 238-243.)

B.—Of Application for Execution.

238. If the property be land registered in the Collector's office, the application for attachment shall be accompanied by an authenticated extract from the register of such office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, or as liable to pay revenue for such land, and the shares of the registered proprietors.

When application must be accompanied by extract from Collector's register.

C.—Of staying Execution.^a

C.—Of staying Execution.

239. The Court to which a decree has been sent for execution under this chapter shall, upon sufficient cause being shewn, stay the execution of such decree for a reasonable time, to enable the judgment-debtor to apply to the Court by which the decree was made, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution,^b or for any other order relating to the decree or execution which might have been made by such Court of first instance or Appellate Court if execution had been issued thereby, or if application for execution had been made thereto ;

When Court may stay execution.

and in case the property or person of the judgment-debtor has been seized under an execution, the Court which issued the execution may order the restitution or discharge of such property or person pending the result of the application for such order.

240. Before passing an order under section 239 to stay execution, or for the restitution of property or the discharge of the judgment-debtor, the Court may require such security from, or impose such conditions upon, the judgment-debtor as it thinks fit.

Power to require security from, or impose conditions upon, judgment-debtor.

241. No discharge under section 239 of the property or person of a judgment-debtor shall prevent it or him from being retaken in execution of the decree sent for execution.

Liability of judgment-debtor discharged to be retaken.

242. Any order of the Court by which the decree was passed, or of such Court of appeal as aforesaid, in relation to the execution of such decree, shall be binding upon the Court to which the decree was sent for execution.

Order of Court which passed decree or of Appellate Court to be binding upon Court applied to.

243. If a suit be pending in any Court against the holder of a decree of

Stay of execution pending suit between

^a Sections 239 to 243 (both inclusive) extend to Provincial Courts of Small Causes—see section 5 and the second Schedule.

^b See section 545, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 244-245.)

decree-holder
and judg-
ment-de tor.

such Court, on the part of the person against whom the decree was passed, the Court may (if it think fit) stay execution on the decree, either absolutely or on such terms as it thinks fit, until the pending suit has been decided.

C.—Of stay-
ing Execu-
tion.

D.—Questions for Court executing Decree.^a

Questions to
be decided
by Court
executing
decree.

244. The following questions shall be determined by order of the Court executing a decree, and not by separate suit, (namely)—

D.—Question
for Court exe-
cuting Decree.

- (a) questions regarding the amount of any mesne profits as to which the decree has directed inquiry^b;
- (b) questions regarding the amount of any mesne profits or interest which the decree has made payable in respect of the subject-matter of a suit, between the date of its institution and the execution of the decree, or the expiration of three years from the date of the decree^c;
- (c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree.

Nothing in this section shall be deemed to bar a separate suit for mesne profits accruing between the institution of the first suit and the execution of the decree therein, where such profits are not dealt with by such decree.

E.—Of the Mode of executing Decrees.^d

Procedure on
receiving
application
for execution
of decree.

245. The Court, on receiving an application for the execution of a decree, shall ascertain whether such of the requirements of sections 235, 236, 237 and 238 as may be applicable to the case have been complied with; and if they have not been complied with, the Court may reject the application, or may allow it to be amended then and there, or within a time fixed by the Court. If the application be not so amended, it shall be rejected.

E.—Of the
Mode of exe-
cuting De-
crees.

Every amendment made under this section shall be attested by the signature of the Judge.

Procedure
on admitting
application.

When the application is admitted, the Court shall enter in the register of the suit^e a note of the application and the date on which it was made, and shall order execution of the decree according to the nature of the application:

Provided that, in the case of a decree for money, the value of the property

^{a, d} Sections 244 to 258 (both inclusive) and section 259 (except so far as relates to the recovery of wives) extend to Provincial Courts of Small Causes—see section 5 and the second schedule.

^b See section 212, *supra*.

^c See section 211, *supra*.

^e See section 53 (last clause), *supra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 246-248.)

*E.—Of the
Mode of exe-
cuting Decrees.*

attached shall, as nearly as may be, correspond with the amount for which the decree has been made.

246. If cross-decrees between the same parties for the payment of money be produced to the Court, execution shall be taken out only by the party who holds a decree for the larger sum, and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum. Cross-decrees.

If the two sums be equal, satisfaction shall be entered upon both decrees.

EXPLANATION I.—The decrees contemplated by this section are decrees capable of execution at the same time and by the same Court.

EXPLANATION II.—This section applies where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as in respect of judgment-debts due by the assignee himself.

EXPLANATION III.—This section does not apply unless—

the decree-holder in one of the suits in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both suits; and

the sums due under the decrees are definite.

Illustrations.

(a) A holds a decree against B for Rs. 1,000. B holds a decree against A for the payment of Rs. 1,000 in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross-decree under this section.

(b) A and B, co-plaintiffs, obtain a decree for Rs. 1,000 against C, and C obtains a decree for Rs. 1,000 against B. C cannot treat his decree as a cross-decree under this section.

(c) A obtains a decree against B for Rs. 1,000. C, who is a trustee for B, obtains a decree on behalf of B against A for Rs. 1,000. B cannot treat C's decree as a cross-decree under this section.

247. When two parties are entitled under the same decree to recover from each other sums of different amounts, the party entitled to the smaller sum shall not take out execution against the other party; but satisfaction for the smaller sum shall be entered on the decree. Cross-claims
under
same decree.

When the amounts are equal, neither party shall take out execution, but satisfaction for each sum shall be entered on the decree.

248. The Court shall issue a notice^a to the party against whom execution

Notice to
show cause
why decree

^a For form, see Schedule IV, No. 135, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 249-252.)

should not
be executed.

is applied for, requiring him to show cause, within a period to be fixed by the Court, why the decree should not be executed against him,

*E.—Of the
Mode of exe-
cuting
Decrees.*

(a) if more than one year has elapsed between the date of the decree and the application for its execution, or

(b) if the enforcement of the decree be applied for against the legal representative of a party to the suit in which the decree was made :

Proviso.

Provided that no such notice shall be necessary—

in consequence of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of any decree passed on appeal from the decree sought to be executed, or of the last order against the party against whom execution is applied for, passed on any previous application for execution, or ‘

in consequence of the application being against the legal representative of the judgment-debtor, if upon a previous application for execution against the same person the Court has ordered execution to issue against him

EXPLANATION.—In this section the phrase “the Court” means the Court by which the decree was passed, unless the decree has been sent to another Court for execution, in which case it means such other Court.

Procedure
after issue
of notice.

249. If the person to whom notice is issued under the last preceding section does not appear, or does not show cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed.

If he offers any objection to the enforcement of the decree, the Court shall consider such objection and pass such order as it thinks fit.

Warrant
when to
issue.

250. When the preliminary measures (if any) required by the foregoing provisions have been taken, the Court, unless it sees cause to the contrary, shall issue its warrant for the execution of the decree.

Date, sig-
nature, seal
and delivery.

251. Such warrant shall be dated the day on which it is issued, signed by the Judge or such officer as the Court appoints in this behalf, sealed with the seal of the Court, and delivered to the proper officer to be executed.

And a day shall be specified in such warrant on or before which it must be executed, and the proper officer shall endorse thereon the day and manner in which it was executed, or, if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

Decree
against

252. If the decree be against a party as the legal representative of a deceased person, and the decree be for money to be paid out of the property of

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 253-257.)

the deceased, it may be executed by the attachment and sale of any such property.

representative
of deceased
for money to
be paid out
of deceased's
property.

If no such property remains in the possession of the judgment-debtor, and he fails to satisfy the Court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property not duly applied by him, in the same manner as if the decree had been against him personally.^a

253. Whenever a person has, before the passing of a decree in an original suit, become liable as surety for the performance of the same or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable, in the same manner as a decree may be executed against a defendant :

Decree
against
surety.

Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety.

254. Every decree or order directing a party to pay money, as compensation or costs, or as the alternative to some other relief granted by the decree or order, or otherwise, may be enforced by the imprisonment of the judgment-debtor, or by the attachment^b and sale of his property in manner hereinafter provided, or by both.

Decree for
money.

255. If the decree be for mesne profits or any other matter the amount of which in money is to be subsequently determined, the property of the judgment-debtor may, before the amount due from him under the decree has been ascertained, be attached as in the case of an ordinary decree for money.

Decree for
mesne profits
or other
matter,
amount of
which to be
subsequently
ascertained.

256. When a decree is passed for a sum of money only, and the amount decreed does not exceed the sum of one thousand rupees, the Court may, when passing the decree, on the oral application of the decree-holder,^c order immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor if he is within the local limits of the jurisdiction of the Court, or against his moveable property within the same limits.

Power to
direct
immediate
execution of
decree for
money not
exceeding
Rs. 1,000.

257. All money payable under a decree shall be paid as follows (namely):—

- (a) into the Court whose duty it is to execute the decree ; or
- (b) out of Court to the decree-holder ; or

Modes of
paying money
under decrees.

^a As to istimrádars in Ajmer and Merwára, see the Ajmer Land and Revenue Regulation, II of 1877, section 29, and section 3 of this Act.

^b For form of warrant of attachment, see Schedule IV, No. 136, *infra*.

^c For power to order execution on oral application in suit for recovery of rent in Bengal, see Act VIII of 1885, section 148, clause (g), and section 1.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 257A-259.)

(c) otherwise as the Court which made the decree directs.

Agreement
to give time
to judgment-
debtor.

257A. Every agreement to give time for the satisfaction of a judgment-debt shall be void unless it is made for consideration and with the sanction of the Court which passed the decree, and such Court deems the consideration to be under the circumstances reasonable.

*E — Of the
Mode of exe-
cuting
Decrees.*

Agreement
for satisfac-
tion of judg-
ment-debt.

Every agreement for the satisfaction of a judgment-debt, which provides for the payment, directly or indirectly, of any sum in excess of the sum due or to accrue due under the decree, shall be void unless it is made with the like sanction.

Any sum paid in contravention of the provisions of this section shall be applied to the satisfaction of the judgment-debt; and the surplus, if any, shall be recoverable by the judgment-debtor.

Payment to
decree-holder.

258. If any money payable under a decree is paid out of Court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, or if any payment is made in pursuance of an agreement of the nature mentioned in section 257A, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree.

The judgment-debtor also may inform the Court of such payment or adjustment, and apply^a to the Court to issue a notice to the decree-holder to shew cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded as certified; and if, after due service of such notice, the decree-holder fails to appear on the day fixed, or having appeared fails to show cause why the payment or adjustment should not be recorded as certified, the Court shall record the same accordingly.

No such payment or adjustment shall be recognized by any Court unless it has been certified as aforesaid.

Decrees for
specific
moveables, or
recovery of
wives.

259. If the decree be for any specific moveable, or for any share in a specific moveable, or for the recovery of a wife, it may be enforced by the seizure, if practicable, of the moveable or share, and by the delivery thereof to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, or by the imprisonment^b of the judgment-debtor, or by attaching his property or by both imprisonment and attachment if necessary.

When any attachment under this section has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-

^a For limitation of such applications, see Act XV of 1877, Schedule II, Article 161, and section 3 of this Act.

^b As to term of imprisonment, see section 312, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 260-261.)

*E—Of the
Mode of exe-
cuting
Decrees.*

holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed under section 208, such amount, and, in other cases, such compensation as it thinks fit, and shall pay the balance, if any, to the judgment-debtor on his application.

If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease to exist.

260. When the party against whom a decree for the specific performance of a contract, or for restitution of conjugal rights or for the performance of or abstention from any other particular act, has been made, has had an opportunity of obeying the decree or injunction and has wilfully failed to obey it, the decree may be enforced by his imprisonment,^a or by the attachment of his property, or by both.

Decree for specific performance or restitution of conjugal rights.

When any attachment under this section has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, the property may be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and may pay the balance, if any, to the judgment-debtor on his application.

If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of one year from the date of the attachment, no application to have the property sold has been made and granted, the attachment shall cease to exist.

261. If the decree be for the execution of a conveyance, or for the endorsement of a negotiable instrument, and the judgment-debtor neglects or refuses to comply with the decree, the decree-holder may prepare the draft of a conveyance or endorsement in accordance with the terms of the decree, and deliver the same to the Court.

Decree for execution of conveyances, or endorsement of negotiable instruments.

The Court shall thereupon cause the draft to be served on the judgment-debtor in manner hereinbefore provided for serving a summons, together with a notice in writing stating that his objections, if any, thereto shall be made within such time (mentioning it) as the Court fixes in this behalf.

The decree-holder may also tender a duplicate of the draft to the Court for execution, upon the proper stamp-paper if a stamp is required by law.

^a As to term of imprisonment, see section 342, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 262-265.)

On proof of such service, the Court, or such officer as it appoints in this behalf, shall execute the duplicate so tendered, or may, if necessary, alter the same, so as to bring it into accordance with the terms of the decree and execute the duplicate so altered :

*E.—Of the
Mode of exe-
cuting
Decrees.*

Provided that, if any party object to the draft so served as aforesaid, his objections shall, within the time so fixed, be stated in writing and argued before the Court, and the Court shall thereupon pass such order as it thinks fit, and execute, or alter and execute, the duplicate in accordance therewith.

Form and
effect of
execution of
conveyance
by Court.

262. The execution of a conveyance, or the endorsement of a negotiable instrument, by the Court under the last preceding section may be in the following form : “ *C. D.*, Judge of the Court of
(or, as the case may be), for *A. B.*, in a suit by *E. F.* against *A. B.*,” or in such other form as the High Court may from time to time prescribe, and shall have the same effect as the execution of the conveyance or endorsement of the instrument by the party ordered to execute or endorse the same.

Decree for
immoveable
property.

263. If the decree be for the delivery of any immoveable property, possession thereof shall be delivered^a over to the party to whom it has been adjudged, or to such person as he appoints to receive delivery on his behalf, and, if need be, by removing any person bound by the decree who refuses to vacate the property.

Delivery of
immoveable
property
when in oc-
cupancy of
tenant.

264. If the decree be for the delivery of any immoveable property in the occupancy of a tenant or other person entitled to occupy the same and not bound by the decree to relinquish such occupancy, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum, or in such other mode as is customary, at some convenient place, the substance of the decree in regard to the property :

Provided that, if the occupant can be found, a notice in writing containing such substance shall be served upon him, and in such case no proclamation need be made.

Partition of
estate or
separation of
share.

265. If the decree be for the partition or for the separate possession of a share of an undivided estate paying revenue to Government, the partition of the estate or the separation of the share shall be made by the Collector and according to the law, if any, for the time being in force for the partition, or the separate possession of shares, of such estates.

^a For form of warrant, see Schedule IV, No 137, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Sec. 266.)

. F.—Of Attachment of Property.^a

F.—Of At-
tachment of
Property

[266. The following property is liable to attachment and sale in execution of a decree (namely), lands,^b houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, hundís, promissory-notes, Government-securities, bonds, or other securities for money, debts, shares in the capital or joint stock of any railway, banking or other public Company or Corporation, and, except as hereinafter mentioned, all other saleable property, moveable or immoveable, belonging to the judgment-debtor or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, and whether the same be held in the name of the judgment-debtor or by another person in trust for him or on his behalf :

Property liable to attachment and sale in execution of decree.

Provided that the following particulars^c shall not be liable to such attachment or sale (namely):—

- (a) the necessary wearing apparel of the judgment-debtor, his wife and children ;
- (b) tools of artisans, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such ;
- (c) the materials of houses and other buildings belonging to and occupied by agriculturists ;
- (d) books of account ;
- (e) mere rights to sue for damages ;
- (f) any right of personal service ;
- (g) stipends and gratuities allowed to military and civil pensioners of Government, and political pensions^d ;
- (h) the salary of a public officer or of any servant of a Railway Company, when such salary does not exceed twenty rupees *per mensem*, and one moiety of the salary of any such officer or servant when his salary exceeds that amount ;

^a Sections 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 280 (both inclusive), 283, 284 (so far as relates to moveable property), and 285 extend to Provincial Courts of Small Causes—see section 5 and the second schedule.

Sections 278 to 283 are not applicable to a tenure or holding in Bengal attached in execution of a decree for rent—see Act VIII of 1885, section 170 (1) and section 1.

^b As regards Oudh, see Act XVIII of 1876, section 20, and section 3 of this Act.

^c As to Ajmer, see the Ajmer Courts Regulation, I of 1877, section 30, and section 3 of this Act.

^d See, too, section 11 of the Pensions Act, XXIII of 1871.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees. Secs. 267-268.)

F.—Of Attachment of Property.

(i) the pay and allowances of persons to whom the Native Articles of War of 1869. War apply;

(j) the wages of labourers and domestic servants^a;

(k) an expectancy of succession by survivorship or other merely contingent or possible right or interest;

(l) a right to future maintenance.

EXPLANATION.—The particulars mentioned in clauses (g), (h), (i) and (j) are exempt from attachment or sale whether before or after they are actually payable :

Provided also that nothing in this section shall be deemed—

(a) to exempt the materials of houses and other buildings from attachment or sale in execution of decrees for rent, or

(b) to affect the Army Act, 1881, or any similar law for the time being in force.

44 & 45
Vic., cap. 58.

Power to summon and examine persons as to property liable to be seized.

267. The Court may, of its own motion or on the application of the decree-holder, summon any person whom it thinks necessary, and examine him in respect to any property liable to be seized in satisfaction of the decree, and may require the person summoned to produce any document in his possession or power relating to such property, and, before issuing the summons of its own motion, shall declare the person on whose behalf the summons is so issued.

Attachment of debt, share and other property not in possession of judgment-debtor.

268. In the case of (a) a debt not secured by a negotiable instrument, (b) a share in the capital of any public Company or Corporation, (c) other moveable property not in the possession of the judgment-debtor, except property deposited in, or in the custody of, any Court, the attachment shall be made by a written order^b prohibiting,—

(a) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until the further order of the Court;

(b) in the case of the share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(c) in the case of the other moveable property except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

^a See 33 & 34 Vic., cap. 30.

^b For forms, see Schedule IV, Nos. 138, 139 and 140, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 269-271.)

*F.—Of At-
tachment of
Property.*

A copy of such order shall be fixed up in some conspicuous part of the Court-house, and another copy of the same shall be sent, in the case of the debt, to the debtor, in the case of the share, to the proper officer of the Company or Corporation, and in the case of the other moveable property (except as aforesaid), to the person in possession of the same.

A debtor prohibited under clause (a) of this section may pay the amount of his debt into court, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

In the case of the salary of a public officer or the servant of a Railway Company, the attachment shall be made by a written order requiring the officer whose duty it is to disburse the salary to withhold every month such portion as the Court may direct, until the further orders of the Court.

A copy of every such order shall be fixed up in a conspicuous part of the Court-house and shall be served on the officer so required.

Every such officer may from time to time pay into Court any portion so withheld, and such payment shall discharge the Government or the Railway Company, as the case may be, as effectually as payment to the judgment-debtor.

269. If the property be moveable property in the possession of the judgment-debtor, other than the property mentioned in the first proviso to section 266, the attachment shall be made by actual seizure, and the attaching officer shall keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof :

Attachment of moveable property in possession of judgment-debtor.

Provided that when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody will exceed its value, the proper officer may sell it at once.

Proviso.

The Local Government may, from time to time, make rules for the maintenance and custody, while under attachment, of live-stock and other moveable property, and the officer attaching property under this section shall, notwithstanding the provisions of the former part of this section, act in accordance with such rules.

Power to make rules for maintenance of attached live-stock.

270. If the property be a negotiable instrument not deposited in a Court, nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought into Court and held subject to the further orders of the Court.

Attachment of negotiable instruments.

271. No person executing any process under this Code directing or authorizing seizure of moveable property shall enter any dwelling-house after sun-

Seizure of property in building.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 272-273.)

set and before sunrise, or shall break open any outer door of a dwelling-house. But, when any such person has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe any such property to be :

*Fr.—Of At-
tachment of
Property.*

Seizure of
property in
zan indas.

Provided that, if the room be in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the person executing the process shall give notice to her that she is at liberty to withdraw ; and, after allowing a reasonable time for such woman to withdraw, and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution, consistent with these provisions, to prevent its clandestine removal.

Attachment
of property
deposited in
Court or with
Government
officer.

272. If the property be deposited in, or be in the custody of, any Court or public officer, the attachment shall be made by a notice^a to such Court or office requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Court from which the notice issues :

Proviso.

Provided that, if such property is deposited in, or is in the custody of, a Court, any question of title or priority arising between the decree-holder and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court.

Attachment
of decree for
money.

273. If the property be a decree for money passed by the Court which passed the decree sought to be executed, the attachment shall be made by an order of the Court directing the proceeds of the former decree to be applied in satisfaction of the latter decree.

If the property be a decree for money passed by any other Court, the attachment shall be made by a notice in writing to such Court under the hand of the Judge of the Court which passed the decree sought to be executed, requesting the former Court to stay the execution of its decree until such notice is cancelled by the Court from which it was sent. The Court receiving such notice shall stay execution accordingly, unless and until—

- (a) the Court which passed the decree sought to be executed cancels the notice, or
- (b) the holder of the decree sought to be executed applies to the Court receiving such notice to execute its own decree.

^a For form, see Schedule IV, No. 142, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 274-276.)

F.—Of Attachment of Property.

On receiving such application, the Court shall proceed to execute the decree and apply the proceeds in satisfaction of the decree sought to be executed.

In the case of all other decrees the attachment shall be made by a notice in writing, under the hand of the Judge of the Court which passed the decree sought to be executed, to the holder of the decree sought to be attached, prohibiting him from transferring or charging the same in any way; and, when such decree has been passed by any other Court, also by sending to such Court a like notice in writing to abstain from executing the decree sought to be attached until such notice is cancelled by the Court from which it was sent. Every Court receiving such notice shall give effect to the same until it is so cancelled.

Attachment of other decrees.

The holder of any decree attached under this section shall be bound to give the Court executing the same such information and aid as may reasonably be required.

Decree-holders to give information.

274. If the property be immoveable, the attachment shall be made by an order^a prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from receiving the same from him by purchase, gift or otherwise.

Attachment of immoveable property.

The order shall be proclaimed at some place on or adjacent to such property by beat of drum or other customary mode, and a copy of the order shall be fixed up in a conspicuous part of the property and of the Court-house.

When the property is land paying revenue to Government, a copy of the order shall also be fixed up in the office of the Collector of the District in which the land is situate.

275. If the amount decreed with costs and all charges and expenses resulting from the attachment of any property be paid into Court, or if satisfaction of the decree be otherwise made through the Court, or if the decree is set aside or reversed, an order shall be issued, on the application of any person interested in the property, for the withdrawal of the attachment.

Order for withdrawal of attachment after satisfaction of decree.

276. When an attachment has been made by actual seizure or by written order duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, mortgage or otherwise, and any payment of the debt or dividend, or a delivery of the share, to the judgment-debtor during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Private alienation of property after attachment, to be void.

^a For form of order, see Schedule IV, No. 141, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 277-282.)

Court may direct coin or currency-notes attached to be paid to party entitled.

Investigation of claims to, and objections to attachment of, attached property.

Postponement of sale.

Evidence to be adduced by claimant.

Release of property from attachment.

Disallowance of claim to release of property attached.

Continuance of attachment subject to claim of incumbrancer.

277. If the property attached is coin or currency-notes, the Court may, *at any time during the continuance of the attachment, direct^a that such coin or notes, or a part thereof sufficient to satisfy the decree, be paid over to the party entitled under the decree to receive the same.* *F.—Of attachment Property*

278. If any claim be preferred to, or any objection be made to the attachment of, any property attached in execution of a decree, on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects, as if he was a party to the suit^b:

Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed.

If the property to which the claim or objection applies has been advertised for sale, the Court ordering the sale may postpone it pending the investigation of the claim or objection.

279. The claimant or objector must adduce evidence to show that at the date of the attachment he had some interest in, or was possessed of, the property attached.

280. ^cIf upon the said investigation the Court is satisfied that, for the reason stated in the claim or objection, such property was not, when attached, in the possession of the judgment-debtor or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the judgment-debtor at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Court shall pass an order for releasing the property, wholly or to such extent as it thinks fit, from attachment.

281. ^cIf the Court is satisfied that the property was, at the time it was attached, in possession of the judgment-debtor as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Court shall disallow the claim.

282. ^cIf the Court is satisfied that the property is subject to a mortgage or

^a For form of order, see Schedule IV, No. 143, *infra*.

^b For form of notice to attaching creditor, see Schedule IV, No. 144, *infra*.

^c For limitation of suits to establish right to property comprised in orders made under sections 280, 281 and 282, see Act XV of 1877, Schedule II, Article 11, and section 3 of this Act.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 283-287.)

F.—Of Attachment of Property.

lien in favour of some person not in possession, and thinks fit to continue the attachment, it may do so, subject to such mortgage or lien.

283. The party against whom an order under section 280, 281 or 282 is passed may institute a suit to establish the right which he claims to the property in dispute, but, subject to the result of such suit, if any, the order shall be conclusive.

Saving of suits to establish right to attached property.

284. Any Court may order that any property which has been attached, or such portion thereof as may seem necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same.

Power to order property attached to be sold and proceeds to be paid to person entitled.

285. Where property not in the custody of any Court has been attached in execution of decrees of more Courts than one, the Court which shall receive or realize such property and shall determine any claim thereto and any objection to the attachment thereof shall be the Court of highest grade, or, where there is no difference in grade between such Courts, the Court under whose decree the property was first attached.

Property attached in execution of decrees of several Courts.

G.—Of Sale and Delivery of Property.^a

(a) *General Rules.^b*

*G.—Of Sale and Delivery of Property—
(a) General Rules:*

286. Sales in execution of decrees shall be conducted by an officer of the Court or by any other person whom the Court may appoint, and, except as provided in section 296, shall be made by public auction in manner herein-after mentioned.

Sales by whom conducted and how made.

287. When any property is ordered to be sold^c by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court. Such proclamation^d shall state the time and place of sale, and shall specify as fairly and accurately as possible—

Proclamation of sales by public auction.

(a) the property to be sold ;

^a Certain modifications have been made in the application of the rules prescribed in sections 287, 288, 293 and 306 to 316 (both inclusive) to sales of immoveable property under the Central Provinces Land-revenue Act—see Act XVIII of 1881, section 109, and section 3 of this Act.

^b Sections 286 to 292 (both inclusive), 293 (so far as relates to re-sales under section 297), 294 and 295 extend to Provincial Courts of Small Causes—see section 5 and the second schedule.

^c For form of warrant of sale, see Schedule IV, No. 145, *infra*.

^d In case of decree for rent in Bengal, the order of attachment and proclamation of sale must issue simultaneously, and certain additional particulars are required in the latter—see Act VIII of 1885, section 163 (1) and (2) and section 1.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 288-290.)

(b) the revenue assessed upon the estate or part of the estate, when the property to be sold is an interest in an estate or a part of an estate paying revenue to Government ;

(c) any incumbrance to which the property is liable ;

(d) the amount for the recovery of which the sale is ordered, and

(e) every other thing which the Court considers material for the purchaser to know in order to judge of the nature and value of the property.

For the purpose of ascertaining the matters so to be specified, the Court may summon any person whom it thinks necessary, and examine him in respect to any such matters, and require him to produce any document in his possession or power relating thereto.

*G.—Of Sale and Delivery of Property—
(a) General Rules :*

Rules to be made by High Court.

The High Court shall, as soon as may be after this Code comes into force, make rules for the guidance of the Courts in exercise of their duties under this section. The High Court may, from time to time, alter any rules so made. All such rules shall be published in the local official Gazette and shall thereupon have the force of law. As regards his own Court and the Court of Small Causes at Rangoon, the Recorder of Rangoon shall be deemed to be a " High Court " within the meaning of this paragraph.

Nothing in this section shall apply to cases in which the execution of the decree has been transferred to the Collector.^a

Indemnity of Judges, &c.

288. No Judge or other public officer shall be answerable for any error, mis-statement or omission in any proclamation under section 287, unless the same has been committed or made dishonestly.

Mode of making proclamation.

289. The proclamation shall be made,^b in manner prescribed by section 271, on the spot where the property is attached, and a copy thereof shall then be fixed up in the Court-house and, in the case of land paying revenue to Government, also in the Collector's office.

If the Court so direct, such proclamation shall also be published in the local official Gazette and in some local newspaper, and the costs of such publication shall be deemed to be costs of the sale.

Time of sale.

290. Except in the case of property mentioned in the proviso to section 269, no sale under this Chapter shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of

^a See sections 320 to 325C, *infra*.

^b For additional means of publishing proclamation in case of sale for arrears of rent in Bengal, see Act VIII of 1885, section 163 (3) and section 1.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 291-294.)

*G.—Of Sale
and Delivery
of Property—
(a) General
Rules :*

moveable property, calculated from the date on which the copy of the proclamation has been fixed up in the Court-house of the Judge ordering the sale.^a

291. ^bThe Court may in its discretion adjourn any sale under this chapter (other than a sale by the Collector) to a specified day and hour, and the officer conducting any such sale may in his discretion adjourn the sale, recording his reasons for such adjournment: provided that when the sale is made in, or within the precincts of, the Court-house, no such adjournment shall be made without the leave of the Court. Whenever a sale is adjourned under this section for a longer period than seven days, a fresh proclamation under section 289 shall be made, unless the judgment-debtor consents to waive it. Every such sale shall be stopped if, before the lot is knocked down, the debt and costs (including the costs of the sale) are tendered to such officer, or proof is given to his satisfaction that the amount of such debt and costs has been paid into the Court that ordered the sale.

Power to
adjourn sale.

292. No officer having any duty to perform in connection with any sale under this Chapter shall either directly or indirectly bid for, acquire or attempt to acquire, any interest in any property sold at such sale.

Stoppage of
sale on tender
of debt and
costs, or on
proof of
payment.

Officers con-
cerned in
execution-
sales not to
bid for or buy
property sold.

293. The deficiency of price (if any) which may happen on a re-sale under this Code by reason of the purchaser's default, and all expenses attending such re-sale, shall be certified to the Court by the officer holding the sale,

Defaulting
purchaser
answerable for
loss by re-sale.

and shall, at the instance of either the judgment-creditor or the judgment-debtor, be recoverable from the defaulter under the rules contained in this Chapter for the execution of a decree for money.

294. No holder of a decree^c in execution of which property is sold shall, without the express permission of the Court, bid for or purchase the property.

Decree-holder
not to bid for
or buy
property
without
permission.

When a decree-holder purchases with such permission, the purchase-money and the amount due on the decree may, if he so desires, be set off against one another, and the Court executing the decree shall enter up satisfaction of the decree in whole or in part accordingly.

If decree-
holder
purchase,
amount of
decree may
be taken as
payment.

^a For special provision as to sales for arrears of rent in Bengal, see Act VIII of 1885, section 163 (4) and section 1.

^b For special provision as to adjournment of sale for arrears of rent in Bengal, see Act VIII of 1885, section 165 and section 1.

^c For special provisions as to decree-holder and judgment-debtor bidding at sale of tenure or holding in Bengal, see Act VIII of 1885, section 173 and section 1.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Sec. 295.)

When a decree-holder purchases, by himself or through another person, without such permission, the Court may, if it thinks fit, on the application of the judgment-debtor or any other person interested in the sale, by order set aside the sale; and the costs of such application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the decree-holder.

G.—Of Sale
and Delivery
of Property—
(a) General
Rules :

Proceeds of
execution-sale
to be divided
rateably
among
decree-
holders.

295. Whenever assets are realized by sale or otherwise in execution of a decree, and more persons than one have, prior to the realization, applied to the Court by which such assets are held for execution of decrees for money against the same judgment-debtor, and have not obtained satisfaction thereof, the assets, after deducting the costs of the realization, shall be divided rateably among all such persons :

Provided as follows :—

Proviso where
property is
sold subject
to mortgage.

(a) when any property is sold subject to a mortgage or charge, the mortgagee or incumbrancer shall not as such be entitled to share in any surplus arising from such sale :

(b) when any property^a liable to be sold in execution of a decree is subject to a mortgage or charge, the Court may, with the assent of the mortgagee or incumbrancer, order that the property be sold free from the mortgage or charge, giving to the mortgagee or incumbrancer the same right against the proceeds of the sale as he had against the property sold :

Proviso.

(c) when immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied^b—

first, in defraying the expenses of the sale ;

secondly, in discharging the interest and principal-money due on the incumbrance ;

thirdly, in discharging the interest and principal-moneys due on subsequent incumbrances (if any) ; and

fourthly, rateably among the holders of decrees for money against the judgment-debtor, who have, prior to the sale of the said property, applied to the Court which made the decree ordering such sale for execution of such decrees and have not obtained satisfaction thereof.

^a Word "is" omitted—see *Gazette of India*, 19th August, 1882, Part I, page 355.

^b Other rules are prescribed for the disposal of proceeds of sale of tenure or holding in Bengal for arrears of rent—see Act VIII of 1885, section 169 and section 1.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 296-301.)

G.—Of Sale
and De-
livery of
Property—

If all or any of such assets be paid to a person not entitled to receive the same, any person so entitled may sue such person to compel him to refund the assets.

(a) General
Rules :

Nothing in this section affects any right of the Government.

(b) Rules as to Moveable Property.^a

(b) Rules as
to Moveable
Property :

296. If the property to be sold be a negotiable instrument or a share in any public Company or Corporation, the Court may, instead of directing the sale to be made by public auction, authorize the sale of such instrument or share through a broker at the market-rate of the day.

Rules as to negotiable instruments and shares in public Companies.

297. In the case of other moveable property, the price of each lot shall be paid for at the time of sale, or as soon after as the officer holding the sale directs, and, in default of payment, the property shall forthwith be again put up and sold.

Payment for other moveable property sold.

On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

298. No irregularity in publishing or conducting the sale of moveable property shall vitiate the sale ; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation, or (if such other person be the purchaser) for the recovery of the specific property and for compensation in default of such recovery.

Irregularity not to vitiate sale of moveable property, but any person injured may sue.

299. When the property sold is a negotiable instrument or other moveable property, of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property actually seized.

300. When the property sold is any moveable property to which the judgment-debtor is entitled subject to the possession of some other person, the delivery thereof to the purchaser shall be made by giving notice^b to the person in possession, prohibiting him from delivering possession of the property to any person except the purchaser.

Delivery of moveable property to which judgment-debtor entitled subject to lien.

301. When the property sold is a debt not secured by a negotiable instrument, or is a share in any public Company, the delivery thereof shall be made by a written order^c of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof

Delivery of debts and of shares in public Companies.

^a Sections 296 to 303 (both inclusive) extend to Provincial Courts of Small Causes—see section 5 and the second Schedule.

^b For form of notice, see Schedule IV, No. 146, *infra*.

^c For forms of orders, see Schedule IV, Nos. 147 and 148, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 302-305.)

to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the manager, secretary or other proper officer of the Company from permitting any such transfer or making any such payment to any person except the purchaser.

G.—Of Sale
and Delivery
of Property—
(b) Rules as
to Moveable
Property:

Transfer of
negotiable
instruments
and shares.

302. If the endorsement or conveyance of the party in whose name a negotiable instrument or a share in any public Company is standing is required to transfer such instrument or share, the Judge may endorse the instrument or the certificate of the share, or may execute such other document as may be necessary.

The endorsement or execution shall be in the following form or to the like effect: “A. B., by C. D., Judge of the Court of (or, as the case may be); in a suit by E. F. against A. B.”

Until the transfer of such instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any endorsement made, or document executed; or receipt signed, as aforesaid, shall be as valid and effectual for all purposes as if the same had been made or executed or signed by the party himself.

Vesting order
in case of
other pro-
perty.

303. In the case of any moveable property not hereinbefore provided for, the Court may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly.

(c) Rules as to Immoveable Property.^a

What Courts
may order
sales of land.
Postponement
of sale of
land to enable
defendant to
raise amount
of decree.

304. Sales of immoveable property in execution of a decree may be ordered by any Court other than a Court of Small Causes.

(c) Rules as
to Immove-
able Property.

305. When an order for the sale of immoveable property has been made, if the judgment-debtor can satisfy the Court that there is reason to believe that the amount of the decree may be raised by mortgage or lease or private sale of such property, or some part thereof, or of any other immoveable property of the judgment-debtor, the Court may, on his application, postpone the sale of property comprised in the order for sale, for such period as it thinks proper to enable him to raise the amount.

Certificate to
judgment-
debtor.

In such case the Court shall grant a certificate to the judgment-debtor

^a Sections 305 and 320 to 326 are not applicable to suits for the recovery of rent in Bengal—see Act VIII of 1885, section 148, clause (a), and section 1.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 306-312.)

*G.—Of Sale
and Delivery
of Prop-
erty—
(c) Rules as
to Immoveable
Property.*

authorizing him, within a period to be mentioned therein, and [notwithstanding anything contained in section 276, to make the proposed mortgage, lease or sale: provided that all moneys payable under such mortgage, lease or sale shall be paid into Court and not to the judgment-debtor :

Provided also that no mortgage, lease or sale under this section shall become absolute until it has been confirmed by the Court.

306. On every sale of immoveable property under this Chapter, the person declared to be the purchaser shall pay immediately after such declaration a deposit of twenty-five per centum on the amount of his purchase-money to the officer conducting the sale, and, in default of such deposit, the property shall forthwith be put up again and sold.

Deposit by
purchaser of
immoveable
property.

307. The full amount of purchase-money shall be paid by the purchaser before the Court closes on the fifteenth day after the sale of the property, exclusive of such day, or, if the fifteenth day be a Sunday or other holiday, then on the first office-day after the fifteenth day.

Time for
payment in
full.

308. In default of payment within the period mentioned in the last preceding section, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold.

Procedure in
default of
payment.

309. Every re-sale of immoveable property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale.

Notification
on re-sale of
immoveable
property.

310. When the property sold in execution of a decree is a share of undivided immoveable property, and two or more persons, of whom one is a co-sharer, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of the co-sharer.

Co-sharer of
share of
undivided
estate sold in
execution to
have prefer-
ence in
bidding.

311. The decree-holder, or any person whose immoveable property has been sold under this Chapter, may apply to the Court to set aside the sale on the ground of a material irregularity in publishing or conducting it ;

Application
to set aside
sale of land
on ground of
irregularity.

but no sale shall be set aside on the ground of irregularity unless the applicant proves to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

312. If no such application as is mentioned in the last preceding section be made, or if such application be made and the objection be disallowed, the

Effect of
objection
being

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 313-316.)

disallowed,
and

Court shall pass an order^a confirming the sale as regards the parties to the suit and the purchaser.

of its being
allowed.

If such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale.

G.—Of Sale
and Delivery
of Property—
(c) Rules as
to Immoveable
Property.

No suit to set aside, on the ground of such irregularity, an order passed under this section shall be brought by the party against whom such order has been made.

Application
to set aside
sale on
ground of
judgment-
debtor having
no saleable
interest.

313.^b The purchaser at any such sale may apply to the Court to set aside the sale, on the ground that the person whose property purported to be sold had no saleable interest therein, and the Court may make such order as it thinks fit: provided that no order to set aside a sale shall be made, unless the judgment-debtor and the decree-holder have had opportunity of being heard against such order.

Confirmation
of sale.

314. No sale of immoveable property in execution of a decree shall become absolute until it has been confirmed by the Court.

If sale set
aside, price
to be returned
to purchaser.

315. When a sale of immoveable property is set aside under section 312 or 313,

or when it is found that the judgment-debtor had no saleable interest in the property which purported to be sold and the purchaser is for that reason deprived of it,

the purchaser shall be entitled to receive back his purchase-money (with or without interest as the Court may direct) from any person to whom the purchase-money has been paid.

The re-payment of the said purchase-money and of the interest (if any) allowed by the Court may be enforced against such person under the rules provided by this Code for the execution of a decree for money.

Certificate to
purchaser of
immoveable
property.

316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate^c stating the property sold and the name of the person who at the time of sale is declared to be the purchaser. Such certificate shall bear the date of the confirmation of the sale; and, so far as regards the parties to the suit and persons claiming through or under them, the title to the property sold shall vest in the purchaser from the date of such

^a Certain fees must be paid before an order is passed confirming the sale of a permanent tenure in Bengal—see Act VIII of 1885, section 13 (1) and section 1. For form of order, see Schedule IV, No. 149, *infra*.

^b This section is not applicable to sales of tenures or holdings in Bengal for arrears of rent—see Act VIII of 1885, section 174 (3) and section 1.

^c For form of certificate, see Schedule IV, No. 150, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 317-320.)

6.—Of Sale
and Delivery
of Property—
(i) Rules as
to Immoveable
Property.

certificate and not before : provided that the decree under which the sale took place was still subsisting at that date.

317. No suit shall be maintained against the certified purchaser on the ground that the purchase was made on behalf of any other person, or on behalf of some one through whom such other person claims. Bar to suit against purchaser buying benāmi.

Nothing in this section shall bar a suit to obtain a declaration that the name of the certified purchaser was inserted in the certificate fraudulently or without the consent of the real purchaser.

318. When the property sold is in the occupancy of the judgment-debtor or of some person on his behalf, or of some person claiming under a title created by the judgment-debtor subsequently to the attachment of such property, and a certificate in respect thereof has been granted under section 316, the Court shall, on application by the purchaser, order^a delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person who refuses to vacate the same. Delivery of immoveable property in occupancy of judgment-debtor.

319. When the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a certificate in respect thereof has been granted under section 316, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or in such other mode as may be customary, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser. Delivery of immoveable property in occupancy of tenant.

320. The Local Government may, with the sanction of the Governor General in Council, declare, by notification in the official Gazette, that in any local area the execution of decrees in cases in which a Court has ordered any immoveable property to be sold, or the execution of any particular kind of such decrees, or the execution of decrees ordering the sale of any particular kind of, or interest in, immoveable property, shall be transferred to the Collector, and rescind or modify any such declaration. Power to prescribe rules for transferring to Collector execution of certain decrees.

The Local Government may also, notwithstanding anything hereinbefore contained, from time to time prescribe rules for the transmission of the decree from the Court to the Collector, and for regulating the procedure of the Collector and his subordinates in executing the same, and for re-transmitting the decree from the Collector to the Court. Power to prescribe rules as to transmission, execution and re-transmission of decrees.

^a For form of order, see Schedule IV, No. 151, *infra*.

Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 321-322B.)

Power of Collector when execution of decrees transferred.

321. When the execution of a decree has been so transferred, the Collector may—

- (a) proceed as the Court would proceed under section 305; or
- (b) raise the amount of the decree by letting in perpetuity, or for a term, on payment of a premium, or by mortgaging, the whole or any part of the property ordered to be sold; or
- (c) sell the property ordered to be sold or so much thereof as may be necessary.

*G.—Of Sale and Delivery of Property—
 (c) Rules as to Immoveable Property.*

Procedure of Collector when execution of decrees transferred.

322. When the execution of a decree, not being a decree ordering the sale of immoveable property in pursuance of a contract specifically affecting the same, but being a decree for money in satisfaction of which the Court has ordered the sale of immoveable property, has been so transferred, the Collector, if, after such enquiry as he thinks necessary, he has reason to believe that all the liabilities of the judgment-debtor can be discharged without a sale of the whole of his available immoveable property, may proceed as hereinafter provided.

Notice to be given to decree-holders and to persons claiming charges on property.

322A. In the case mentioned in section 322, the Collector shall publish a notice calling upon—

- (a) every person holding a decree for money against the judgment-debtor capable of execution by sale of his immoveable property, and which such decree-holder desires to have so executed, and every holder of a decree for money in execution of which proceedings for the sale of such property are pending, to produce before the Collector a copy of the decree, and a certificate from the Court which passed or is executing the same, declaring the amount recoverable thereunder;
- (b) every person having any claim on the said property, to submit to the Collector a statement of such claim, and to produce the documents, if any, by which it is evidenced.

Such notice shall be in the language of the district, and shall allow a period of sixty days from the date of its publication for compliance therewith. It shall be published by being posted in the court-house of the Court which made the original order under section 304, and at such other places (if any) as the Collector thinks fit. Where the address of any such decree-holder or claimant is known, a copy of the notice shall be sent to him by post or otherwise.

Amount of money decreed to be ascertained.

322B. Upon the expiration of the said period the Collector shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make, and for holding such enquiry

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 322C-323.)

*Cl.—Of Sale
and Delivery
of Property—
(v) Rules as
to Immoveable
Property.*

as he may deem necessary for informing himself as to the nature and extent of such decrees and claims and of the judgment-debtor's immoveable property, and may, from time to time, adjourn such hearing and enquiry.

and immoveable property available for their satisfaction.

If there be no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Collector is informed, or as to the relative priorities of such decrees or claims, or as to the liability of any such property for the satisfaction of such decrees or claims, the Collector shall draw up a statement, specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees and claims are to be satisfied, and the immoveable property available for that purpose.

If any such dispute arises, the Collector shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order under section 304, and shall, pending the reference, stay proceedings relating to the subject thereof. The Court shall dispose of the dispute if the matter thereof be within its jurisdiction, or transmit the case to a competent Court for disposal, and the final decision shall be communicated to the Collector. The Collector shall then draw up a statement as above provided in accordance with such decision.

322C. The Collector may, instead of himself issuing the notices and holding the enquiry required by sections 322A and 322B, draw up a statement specifying the circumstances of the judgment-debtor and of his immoveable property so far as they are known to the Collector or appear in the records of his office, and forward such statement to the District Court; and such Court shall thereupon issue the notices, hold the inquiry and draw up the statement required by sections 322A and 322B, and transmit such statement to the Collector.

When District Court may issue notices and hold inquiry.

322D. The decision by the Court of any dispute arising under section 322B or section 322C shall, as between the parties thereto, have the force of, and be appealable as, a decree.

Effect of decision of Court as to dispute arising under section 322B or 322C.

323. Whenever the amount to be recovered and the property available have been determined as provided in section 322B or 322C, the Collector may—

Scheme for liquidation of money-decrees.

- (1) if it appears that the amount cannot be recovered without the sale of the whole of the property available, proceed to sell such property; or if it appears that the amount with interest (if any) in accordance

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Sec. 324.)

- with the decree, and, when not decreed, with interest (if any) at such rate as he thinks reasonable, may be recovered without such sale,
- (2) raise such amount and interest (notwithstanding any order under section 304),—
- (a) by letting in perpetuity or for a term, on payment of a premium, the whole or any part of the said property ; or
- (b) by mortgaging the whole or any part of such property ; or
- (c) by selling part of such property ; or
- (d) by letting on farm, or managing by himself or another, the whole or any part of such property for any term not exceeding twenty years from the date of the order of sale ; or
- (e) partly by one of such modes, and partly by another or others of such modes.
- (3) For the purpose of managing under this section the whole or any part of such property, the Collector may exercise all the powers of its owner.
- (4) For the purpose of improving the saleable value of the property available or any part thereof, or rendering it more suitable for letting or managing, or for preserving the property from sale in satisfaction of an incumbrance, the Collector may discharge the claim of any incumbrancer which has become payable, or compound the claim of any incumbrancer whether it has become payable or not, and, for the purpose of providing funds to effect such discharge or composition, may mortgage, let or sell any portion of the property which he deems sufficient. If any dispute arises as to the amount due on any incumbrance with which the Collector proposes to deal under this paragraph, he may institute a suit in the proper Court, either in his own name or the name of the judgment-debtor, to have an account taken, or he may agree to refer such dispute to the decision of two arbitrators, one to be chosen by each party, or of an umpire to be named by such arbitrators.

G.—Of Sale and Delivery of Property—
(c) Rules as to Immoveable Property.

In proceeding under paragraphs (2), (3) and (4) of this section, the Collector shall be subject to such rules consistent with this Act as may, from time to time, be made in this behalf by the Chief Controlling Revenue-authority.

Recovery of
balance, if
any, after

324. If, on the expiration of the letting or management under section 323, the amount to be recovered has not been realized, the Collector shall notify

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Sec. 324A.)

the fact in writing to the judgment-debtor or his representative in interest, stating at the same time that, if the balance necessary to make up the said amount is not paid to the Collector within six weeks of the date of such notice, he will proceed to sell the whole or a sufficient part of the said property; and, if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property or part accordingly. letting or management.

324A. The Collector shall, from time to time, render to the Court which made the original order under section 304 an account of all moneys which come to his hands and of all charges incurred by him in the exercise and performance of the powers and duties conferred and imposed on him under the provisions of this Chapter, and shall hold the balance at the disposal of the Court. Collector to render accounts to Civil Court.

Such charges shall include all debts and liabilities from time to time due to the Government in respect of the property or any part thereof, the rent (if any) from time to time due to a superior holder in respect of such property or part, and (if the Collector so directs) the expenses of witnesses summoned by him.

Such balance shall be applied by the Court as follows :—

firstly, in providing for the maintenance of such members of the judgment-debtor's family (if any) as are entitled to be maintained out of the income of the property, to such amount in the case of each member as the Court thinks fit; and Application of balance.

secondly, where the Collector has proceeded under section 321, in satisfaction of the original decree in execution of which the Court ordered the sale of immoveable property or otherwise as the Court may under section 295 direct; or

thirdly, where the Collector has proceeded under section 322, in keeping down the interest on incumbrances on the property, and (when the judgment-debtor has no other sufficient means of subsistence) in providing for his subsistence to such amount as the Court thinks fit; and in discharging rateably the claims of the original decree-holder and any other decree-holders who have complied with the said notice, and whose claims were included in the amount ordered to be recovered;

and no other holder of a decree for money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained such order have been satisfied;

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 325-325C.)

and the residue, if any, shall be paid to the judgment-debtor or such other person, if any, as the Court directs.

G.—Of Sale and Delivery of Property—
(c) Rules as to Immoveable Property.

Sales in
to be con-
ducted

325. When the Collector sells any property under this Chapter, he shall put it up to public auction, in one or more lots as he thinks fit, and may—

- (a) fix a reasonable reserved price for each lot;
- (b) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment;
- (c) buy in the property offered for sale, and re-sell the same by public auction or private contract, as he thinks fit.

Retention
as to deten-
tion of prop-
erty in
of the prop-
erty, and
and power to
to the prop-
erty, and
the prop-
erty, and
the prop-
erty, and

325A. So long as the Collector can exercise or perform in respect of the judgment-debtor's immoveable property, or any part thereof, any of the powers or duties conferred or imposed on him by sections 322 to 325 (both inclusive), the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector, nor shall any Civil Court issue any process against such property or part in execution of a decree for money.

During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under section 323.

The same period shall be excluded in calculating the period of limitation applicable to the execution of any decree affected by the provisions of this section in respect of any remedy of which the decree-holder has thereby been temporarily deprived.

Power to
sell prop-
erty in
several
districts.

325B. When the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by sections 321 to 325 (both inclusive) shall, from time to time, be exercised and performed by such one of the Collectors of the said districts as the Local Government may by general rule or special order direct.

Power of
Collector to
compel
attendance of
parties and
witnesses and
production of
documents.

325C. In exercising the powers conferred on him by sections 322 to 325 (both inclusive), the Collector shall have the powers of a Civil Court to compel the attendance of parties and witnesses and the production of documents.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 326-329.)

G.—Of Sale
and Delivery
of Property—
(e) Rules as
to Immove-
able Property.

326. When, in any local area in which no declaration under section 320 is in force, the property attached consists of land or of a share in land, and the Collector represents to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation or management of the land or share, the Court may authorize^a the Collector to provide for such satisfaction in the manner recommended by him, instead of proceeding to a sale of the land or share. In such case the provisions of section 320, paragraph two, to 325C (both inclusive) shall apply, as far as they are applicable.

When Court may authorize Collector to stay public sale of land.

327. The Local Government may, from time to time, with the sanction of the Governor General in Council, make special rules for any local area imposing conditions in respect of sale of any class of interests in land in execution of decrees for money, where such interests are so uncertain or undetermined as, in the opinion of the Local Government, to make it impossible to fix their value :

Local rules as to sales of land in execution of decrees for money.

and if, when this Code comes into operation in any local area, any special rules as to sale of land in execution of decrees are in force therein, the Local Government may continue such rules in force, or may, from time to time, with the sanction of the Governor General in Council, modify the same.

All rules so made or continued, and all such modifications of the same, shall be published in the local official Gazette, and shall thereupon have the force of law.

H.—Of Resistance to Execution.^b

H.—Of Resistance to Execution.

328. If, in the execution of a decree for the possession of property, the officer charged with the execution of the warrant is resisted or obstructed by any person, the decree-holder may complain to the Court at any time within one month from the time of such resistance or obstruction.

Procedure in case of obstruction to execution of decree.

The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

329. If the Court is satisfied that the obstruction or resistance was occasioned by the judgment-debtor or by some person at his instigation, the Court shall enquire into the matter of the complaint, and pass such order^c as it thinks fit.

Procedure in case of obstruction by judgment-debtor or at his instigation.

^a For form of authorization, see Schedule IV, No. 152, *infra*.

^b Sections 328 to 333 (both inclusive, so far as relates to moveable property) extend to Provincial Courts of Small Causes—see section 5 and the second schedule.

^c For form of order for committal, see Schedule IV, No. 153, *infra*.

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 330-332.)

Procedure
when
obstruction
continues.

330. If the Court is satisfied that the resistance or obstruction was without any just cause, and that the complainant is still resisted or obstructed in obtaining possession of the property by the judgment-debtor or some other person at his instigation, the Court may, at the instance of the decree-holder and without prejudice to any penalty to which such judgment-debtor or other person may be liable, under the Indian Penal Code or any other law, for such resistance or obstruction, commit the judgment-debtor or such other person to jail for a term which may extend to thirty days, and direct that the decree-holder be put into the possession of the property. H.—Of Resistance to Execution.
XLV of 1860.

Procedure
in case of
obstruction
by claimant
in good faith,
other than
judgment-
debtor.

331. If the resistance or obstruction has been occasioned by any person other than the judgment-debtor claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant ;

and the Court shall, without prejudice to any proceedings to which the claimant may be liable under the Indian Penal Code or any other law for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of Chapter V, XLV of 1860.

and shall pass such order as it thinks fit for executing or staying execution of the decree.

Every such order shall have the same force as a decree, and shall be subject to the same conditions as to appeal or otherwise.

Pro-
cedure
in case of
obstruction
by person
other than
judgment-
debtor,
claimant
in good
faith,
other than
judgment-
debtor.

332. If any person other than the judgment-debtor is dispossessed of any property in execution of a decree, and such person disputes the right of the decree-holder to dispossess him of such property under the decree, on the ground that the property was *bona fide* in his possession on his own account or on account of some person other than the judgment-debtor, and that it was not comprised in the decree, or that, if it was comprised in the decree, he was not a party to the suit in which the decree was passed, he may apply ^a to the Court.

If, after examining the applicant, it appears to the Court that there is probable cause for making the application, the Court shall proceed to investigate the matter in dispute ; and if it finds that the ground mentioned in the

^a For limitation of such applications, see Act XV of 1877, Schedule II, Article 165, and section 3 of this Act.

*Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 333-336.)*

H.—Of Resistance to Execution.

first paragraph of this section exists, it shall make an order that the applicant recover possession of the property, and if does not find as aforesaid, it shall dismiss the application.

In hearing applications under this section, the Court shall confine itself to the grounds of dispute above specified.

The party against whom an order is passed under this section may institute a suit to establish the right which he claims to the present possession of the property; but, subject to the result of such suit, if any, the order shall be final.

333. Nothing in section 331 or 332 applies to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made.

Transfer of property by judgment-debtor after institution of suit.

334. If the purchaser of any immoveable property sold in execution of a decree be resisted or obstructed by the judgment-debtor or any one on his behalf in obtaining possession of the property, the provisions of this Chapter relating to resistance or obstruction to a decree-holder in obtaining possession of the property adjudged to him shall be applicable.

Resisting or obstructing purchaser in obtaining possession of immoveable property.

335. If the purchaser of any such property is resisted or obstructed by any person other than the judgment-debtor claiming in good faith a right to the present possession thereof, or if, in delivering possession thereof, any such person is dispossessed, the Court, on the complaint of the purchaser or the person so dispossessed, shall inquire into the matter of the resistance, obstruction or dispossession, as the case may be, and pass such order thereon as it thinks fit.

Obstruction by claimant other than judgment-debtor.

The party against whom such order is passed may institute a suit^a to establish the right which he claims to the present possession of the property; but, subject to the result of such suit, if any, the order shall be final.

I.—Of Arrest and Imprisonment.^b

I.—Of Arrest and Imprisonment.

336. A judgment-debtor may be arrested in execution of a decree at any hour and on any day, and shall as soon as practicable be brought before the Court, and his imprisonment may be in the civil jail of the district in which

Place of judgment-debtor's imprisonment.

^a For limitation of such suits, see Act XV of 1877, Schedule II, Article 11, and section 3 of this Act.

^b Sections 336 to 343 (both inclusive) extend to Provincial Courts of Small Causes—see section 5 and the second Schedule.

For power to refuse an application for imprisonment of judgment-debtor in Ajmer and Merwara, see the Ajmer Courts Regulation I of 1877, section 31, and section 3 of this Act.

(Part I—Of *Suits in General*. Chapter XIX.—Of the *Execution of Decrees*.
Sec. 336.)

the Court ordering the imprisonment is situate, or, when such jail does not afford suitable accommodation, in any other place which the Local Government may appoint for the confinement of persons ordered by the Courts of such district to be imprisoned :

*I.—Of Arrest
and Impri-
sonment.*

Provided,

Provided as follows :—

- (a) for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset or before sunrise, and no outer door of a dwelling-house shall be broken open. But, when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe the judgment-debtor is to be found : provided that, if the room be in the actual occupancy of a woman who is not the judgment-debtor, and who according to the customs of the country does not appear in public, the officer shall give notice to her that she is at liberty to withdraw ; and, after allowing a reasonable time for her to withdraw and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of making the arrest :
- (v) when the decree in execution of which a judgment-debtor is arrested is a decree for money, and the judgment-debtor pays the amount of the decree and the costs of the arrest to the officer arresting him, such officer shall at once release him.

The Local Government may, by notification published in the official Gazette, direct that, whenever a judgment-debtor is arrested in execution of a decree for money and brought before the Court under this section, the Court shall inform him that he may apply under Chapter XX to be declared an insolvent, and that he will be discharged if he has not committed any act of bad faith regarding the subject of his application, and if he places all his property in possession of a receiver appointed by the Court.

If after such publication the judgment-debtor express his intention so to apply, and if he furnish sufficient security that he will appear when called upon, and that he will within one month apply under section 344 to be declared an insolvent, the Court shall release him from arrest :

But if he fails so to apply, the Court may either direct the security to be realized or commit him to jail in execution of the decree.

In the case of a surety such security may be realized in manner provided by section 253

(Part I.—Of Suits in General. Chapter XIX.—Of the Execution of Decrees.
Secs. 337-341.)

337. Every warrant^a for the arrest of the judgment-debtor shall direct the officer entrusted with its execution to bring him before the Court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs, if any, to which he is liable, be sooner paid.

Warrant for arrest to direct judgment-debtor to be brought up.

338. The Local Government may, from time to time, prescribe scales, graduated according to rank, race and nationality, of monthly allowances payable for the subsistence of judgment-debtors.

Scales of subsistence allowances.

339. No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into Court such sum as, having regard to the scales so fixed, the Judge thinks sufficient for the subsistence of the judgment-debtor from his arrest until he can be brought before the Court.

Judgment-debtor's subsistence-money.

When a judgment-debtor is committed to jail in execution of a decree, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the said scales, or, where no such scales have been fixed, as it considers sufficient with reference to the class to which he belongs.

The monthly allowance fixed by the Court shall be supplied by the party on whose application the decree has been executed, by monthly payments in advance before the first day of each month.

The first payment shall be made to the proper officer of the Court for such portion of the current month as remains unexpired before the judgment-debtor is committed to jail, and the subsequent payments (if any) shall be made to the officer in charge of the jail.

340. Sums disbursed by the decree-holder for the subsistence of the judgment-debtor in jail shall be deemed to be costs in the suit :

Subsistence-money to be costs in suit.

Provided that the judgment-debtor shall not be detained in jail or arrested on account of any sum so disbursed.

341. The judgment-debtor shall be discharged from jail—

- (a) on the amount mentioned in the warrant of committal being paid to the officer in charge of the jail; or
- (b) on the decree being otherwise fully satisfied; or
- (c) at the request of the person on whose application he has been imprisoned; or

Release of judgment-debtor.

(Part I.—Of Suits in General. Chapter XX.—Of Insolvent Judgment-debtors. Secs. 342-344.)

- (d) on such person omitting to pay the allowance as hereinbefore directed ; or
- (e) if the judgment-debtor be declared an insolvent, as hereinafter provided ; or
- (f) when the term of his imprisonment, as limited by section 342, is fulfilled.

Provided that, in the second, third and fifth cases mentioned in this section, the judgment-debtor shall not be discharged without the order of the Court.

A judgment-debtor discharged under this section is not thereby discharged from his debt ; but he cannot be re-arrested under the decree in execution of which he was imprisoned.

342. No person shall be imprisoned in execution of a decree for a longer period than six months ;

or for a longer period than six weeks if the decree be for the payment of a sum of money not exceeding fifty rupees.

343. The officer entrusted with the execution of the warrant shall endorse thereupon the day on, and the manner in, which it was executed, and, if the latest day specified in the warrant for the return thereof has been exceeded, the reason of the delay, or, if it was not executed, the reason why it was not executed, and shall return the warrant with such endorsement to the Court.

If the endorsement is to the effect that such officer is unable to execute the warrant, the Court shall examine him on oath touching his alleged inability, and may, if it thinks fit, summon and examine witnesses as to such inability, and shall record the result.

CHAPTER XX.^a

OF INSOLVENT JUDGMENT-DEBTORS.

344. Any judgment-debtor arrested or imprisoned in execution of a decree for money, or against whose property an order of attachment has been made in execution of such a decree, may apply in writing to be declared an insolvent.

^a Modified in the case of proceedings under the Dekkhan Agriculturists' Relief Act—see Act XVII of 1873, Chapter IV, and section 3 of this Act.

Imprisonment not to exceed six months, when not to exceed six weeks.

Endorsement on warrant.

Power to apply for declaration of insolvency.

(Part I.—Of Suits in General. Chapter XX.—Of Insolvent Judgment-debtors.
Secs. 345-347.)

Any holder of a decree for money may apply in writing that the judgment-debtor may be declared an insolvent.

Every such application shall be made to the District Court^a within the local limits of whose jurisdiction the judgment-debtor resides or is in custody.

345. The application, when made by the judgment-debtor, shall set forth—

Contents of application.

(a) the fact of his arrest or imprisonment, or that an order for the attachment of his property has been made, the Court by whose order he was arrested or imprisoned, or by which the order of attachment was made, and, where he has been arrested or imprisoned, the place in which he is in custody ;

(b) the amount, kind and particulars of his property, and the value of any such property not consisting of money ;

(c) the place or places in which such property is to be found ;

(d) his willingness to put it at the disposal of the Court ;

(e) the amount and particulars of all pecuniary claims against him ; and

(f) the names and residences of his creditors, so far as they are known to or can be ascertained by him.

The application, when made by the holder of a decree for money, shall set forth the date of the decree, the Court by which it was passed, the amount remaining due thereunder, and the place where the judgment-debtor resides or is in custody.

346. The application shall be signed and verified by the applicant in manner hereinbefore prescribed^b for signing and verifying plaints.

Subscription and verification of application.

347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in court, and served at the applicant's expense—

Service of copy of application and notice.

where the applicant is the judgment-debtor—on the holder of the decree in execution of which he was arrested or imprisoned or the order of attachment was made, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application :

where the applicant is the decree-holder—on the judgment-debtor or his pleader.

^a See section 360, *infra*.

^b See sections 51 and 52, *supra*.

(Part I.—Of Suits in General. Chapter XX.—Of Insolvent Judgment-debtors.
Secs. 348-351.)

The Court may, if it thinks fit, publish at the applicant's expense the application in such official Gazettes and public newspapers as it thinks fit.

Where the applicant is the judgment-debtor, the Court may exempt him from any payments under this section if satisfied that he is unable to make them.

Power to
serve notice
creditors.

348. The Court may also, if it thinks fit, cause a like copy and notice to be served on any other person alleging himself to be a creditor of the applicant and applying for leave to be heard on the application.

Powers of
Court as to
judgment-
debtor under
arrest.

349. Where the judgment-debtor is under arrest, the Court may, pending the hearing under section 350, order him to be immediately committed to jail, or leave him in the custody of the officer to whom the service of the warrant was entrusted, or release him on his furnishing sufficient security that he will appear when called upon.

Procedure at
hearing.

350. On the day so fixed, or on any subsequent day to which the Court may adjourn the hearing, the Court shall examine the judgment-debtor, in the presence of the persons on whom such notice has been served or their pleaders, as to his then circumstances and as to his future means of payment, and shall hear the said decree-holder, the other creditors mentioned in the application, and the other persons (if any) alleging themselves to be creditors, in opposition to the judgment-debtor's discharge; and may, if it thinks fit, grant time to the said decree-holder and other creditors or persons to adduce evidence showing that the judgment-debtor is not entitled to be declared an insolvent.

Declaration
of insolvency
and appoint-
ment
of Receiver.

351. If the Court is satisfied—

- (a) that the statements in the application are substantially true;
- (b) that the judgment-debtor has not, with intent to defraud his creditors, concealed, transferred or removed any part of his property since the institution of the suit in which was passed the decree in execution of which he was arrested or imprisoned, or the order of attachment was made, or at any subsequent time;
- (c) that he has not, knowing himself to be unable to pay his debts in full, recklessly contracted debts or given an unfair preference to any of his creditors by any payment or disposition of his property;
- (d) that he has not committed any other act of bad faith regarding the matter of the application,

the Court may declare him to be an insolvent, and may also, if it thinks fit, make an order appointing a Receiver of his property, or, if it does not appoint such Receiver, may discharge the insolvent.

(Part I.—Of Suits in General. Chapter XX.—Of Insolvent Judgment-debtors.
Secs. 352-355.)

If the Court is not so satisfied, it shall make an order rejecting the application.

352. The creditors mentioned in the application, and the other persons (if any) alleging themselves to be creditors of the insolvent, shall then produce evidence of the amount and particulars of their respective pecuniary claims against him; and the Court shall, by order, determine the persons who have proved themselves to be the insolvent's creditors and their respective debts; and shall frame a schedule of such persons and debts; and the declaration under section 351 shall be deemed to be a decree in favour of each of the said creditors for their said respective debts.

Creditors to prove their debts.

Schedule to be framed.

A copy of every such schedule shall be stuck up in the court-house.

Nothing in this section shall be deemed to entitle a partner in an insolvent-firm, or, when he has died before the insolvency, his legal representative, to prove in competition with the creditors of the firm.

353. Any creditor of the insolvent who is not mentioned in such schedule may apply^a to the Court for permission to produce evidence of the amount and particulars of his pecuniary claims against the insolvent, and, in case the applicant proves himself to be a creditor of the insolvent, for an order directing his name to be inserted in the schedule as a creditor for the debt so proved.

Applications by unscheduled creditors.

Any creditor mentioned in the schedule may apply^b to the Court for an order altering the schedule so far as regards the amount, nature or particulars of his own debt, or to strike out the name of another creditor, or to alter the schedule so far as regards the amount, nature or particulars of the debt of another creditor.

In the case of any application under this section, the Court, after causing such notices as it thinks fit to be served, at the applicant's expense, on the insolvent and the other creditors, and hearing their objections, if any, may comply with or reject the application.

354. Every order under section 351 shall be published in the local official Gazette, and shall operate to vest in the Receiver all the insolvent's property (except the particulars specified in the first proviso to section 266), whether set forth in his application or not.

Effect of order appointing Receiver.

355. The Receiver so appointed shall give such security as the Court may direct, and shall possess himself of all such property, except as aforesaid;

Receiver to give security and collect assets.

^{a, b} For limitation of such applications, see Act XV of 1877, Schedule II, Article 174, and section 3 of this Act.

(Part I.—Of Suits in General. Chapter XX.—Of Insolvent Judgment-debtors. Secs. 356-357.)

Discharge of insolvent.

and on his certifying that the insolvent has placed him in possession thereof, or has done everything in his power for that purpose, the Court may discharge the insolvent upon such conditions (if any) as the Court thinks fit.

Duty of Receiver.

356. The Receiver shall proceed, under the direction of the Court,—

- (a) to convert the property into money,
- (b) to pay thereout debts, fines and penalties (if any) due by the insolvent to Government,
- (c) to pay the said decree-holder's costs,
- (d) to discharge, according to their respective priorities, all debts secured by mortgage of the insolvent's property,
- (e) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts and without any preference,

His right to remuneration.

and such Receiver may retain as a remuneration for the performance of his duties a commission, to be fixed by the Court, not exceeding the rate of five per centum upon the amount of the balance so distributed (the amount of the commission so retained being deemed a distribution), and shall deliver the surplus, if any, to the insolvent or his legal representative:

Delivery of surplus.

Provided that, in any local area in which a declaration has been made under section 320 and is in force, no sale of immoveable property paying revenue to Government or held or let for agricultural purposes shall be made by the Receiver; but, after he has sold the other property of the insolvent, the Court shall ascertain (a) the amount required to satisfy the claims of the scheduled creditors after deducting the moneys already received, (b) the immoveable property of the insolvent remaining unsold, and (c) the incumbrances, if any, existing thereon, and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by sections 322 to 325, both inclusive, as he thinks fit, and subject to the provisions of those sections so far as they may be applicable; and shall hold at the disposal of the Court all sums that may come to his hands by such exercise.

Effect of discharge

357. An insolvent discharged under section 351 or 355 shall not be arrested or imprisoned on account of any of the scheduled debts. But (subject to the provisions of section 358) his property, whether previously or subsequently acquired (except the particulars specified in the first proviso to section 266 and except the property vested in the Receiver), shall, by order of

(Part I.—Of Suits in General. Chapter XX.—Of Insolvent Judgment-debtors. Secs. 358-360.)

the Court, be liable to attachment and sale until the debts due to the scheduled creditors are satisfied to the extent of one-third, or until the expiry of twelve years from the date of the order of discharge under section 351 or 355.

358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the Court may, and in any case after the scheduled debts have been satisfied to the extent of one-third, or after the expiry of twelve years from the order of discharge, the Court shall declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts.

Declaration that insolvent is discharged from liability.

359. Whenever, at the hearing under section 350, it is proved that the applicant has—

- (a) been guilty, in his application, of any concealment, or of wilfully making any false statement as to the debts due by him, or respecting the property belonging to him, whether in possession or in expectancy, or held for him in trust;
- (b) fraudulently concealed, transferred or removed any property; or
- (c) committed any other act of bad faith regarding the matter of the application,

Procedure in case of dishonest applicant.

the Court shall, at the instance of any of his creditors, sentence him by order in writing to imprisonment for a term which may extend to one year from the date of committal.

Or the Court may, if it think fit, send him to the Magistrate to be dealt with according to law.

360^a. The Local Government may, by notification in the official Gazette, invest any Court other than a District Court with the powers conferred on District Courts by sections 344 to 359 (both inclusive), and the District Judge may transfer to any Court situate in his district and so invested any case instituted under section 344.

Investment of other Courts with District Courts.

Any Court so invested may entertain any application under section 344 by any person arrested^b in execution of a decree of such Court.

Nothing in this chapter shall apply to any Court having jurisdiction in the towns of Rangoon, Maulmain, Akyab and Bassein where the property of the judgment-debtor exceeds in value two thousand five hundred rupees, or the amount of the pecuniary claims against him exceeds five thousand rupees, or such property or any part thereof is situate outside British Burma.

^a This section extends to Provincial Courts of Small Causes—see section 5 and the second Schedule.

^b See I. L. R., 7 Mad. 510.

(Part II.—Of Incidental Proceedings. Chapter XXI.—Of the Death, Marriage and Insolvency of Parties. Secs 361-363.)

PART II. OF INCIDENTAL PROCEEDINGS.

CHAPTER XXI.

OF THE DEATH, MARRIAGE AND INSOLVENCY OF PARTIES.

No abatement by party's death, if right to sue survives.

361. The death of a plaintiff or defendant shall not cause the suit to abate, if the right to sue survives.

Illustrations

(a) A cove nants with B and C to pay an annuity to B during C's life. B and C sue A to compel payment. B dies before the decree. The right to sue survives to C, and the suit does not abate.

(b) In the same case, all the parties die before decree. The right to sue survives to the representative of the survivor of B and C, and he may continue the suit against A's representative.

(c) A sues B for libel. A dies. The right to sue does not survive and the suit abates.

(d) A, a member of a Hindu joint family under the Mitáksharā law, institutes a suit for partition of the family property. A dies leaving B, a minor son, his heir. The right to sue survives to B, and the suit does not abate.

Procedure in case of death of one of several plaintiffs or defendant if right to sue survives.

362. If there be more plaintiffs or defendants than one, and any of them dies, and if the right to sue survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the Court shall cause an entry to that effect to be made on the record, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants.

Procedure in case of death of one of several plaintiffs where right to sue survives to survivors and representative of deceased.

363. If there be more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or to him and the legal representative of the deceased plaintiff jointly, the Court may, on the application of such legal representative, enter his name on the record in the place of such deceased plaintiff, and the suit

See Order I, rule 1, and section 15, Act No. 5 of 1877.

This chapter extends to every Civil Court in this section 5 and the second schedule.

In this chapter the word "plaintiff" and "defendant" include an appellant, a respondent and an appeal, respectively. See Act No. 582, at 4.

^b For limitation of such application, see Act XV of 1877 Schedule II Article 171, and section 4 of the Act.

(Part II.—Of Incidental Proceedings. Chapter XXI.—Of the Death, Marriage and Insolvency of Parties. Secs. 364-367.)

shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative.

364. If within the time limited by law no application be made to the Court by any person claiming to be the legal representative of a deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs;

Procedure where no application made by representative of deceased plaintiff.

and the legal representative (if any) of the deceased plaintiff shall be made a party and shall be interested in and bound by the decree passed in the suit, in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

365. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, where the right to sue survives, on the application^a of the legal representative of the deceased, enter his name in the place of such plaintiff on the record, and the suit shall thereupon proceed.

Procedure in case of death of sole, or sole surviving, plaintiff.

366. If within the time limited by law no such application be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the Court may pass an order that the suit shall abate, and shall, on the application^b of the defendant, award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased plaintiff;

Abatement where no application by representative of deceased plaintiff.

or the Court may, if it think proper, on the application^c of the defendant, and upon such terms as to costs or otherwise as it thinks fit, pass such other order as it thinks fit for bringing in the legal representative of the deceased plaintiff, or for proceeding with the suit in order to a final determination of the matter in dispute, or for both those purposes.

EXPLANATION.—A certificate of heirship, or a certificate to collect debts, does not of itself constitute the person holding it the legal representative of the deceased. But when the person holding any such certificate obtains thereby property belonging to the deceased, he may be treated as a legal representative liable in respect of such property.

367. If any dispute arise as to who is the legal representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Procedure in case of dispute as to representative of deceased plaintiff.

^a For limitation of such applications, see Act XV of 1877, Schedule II, Article 171, and section 3 of this Act

^b ^c For limitation of such applications, see Act XV of 1877, Schedule II, Article 171A, and section 3 of this Act

(Part II.—Of Incidental Proceedings. Chapter XXI.—Of the Death, Marriage and Insolvency of Parties. Secs. 368-370.)

Procedure in case of death of one of several defendants, or of sole, or sole surviving defendant.

368. If there be more defendants than one, and any of them die before decree and the right to sue does not survive against the surviving defendant or defendants alone,

and also in case of the death of a sole defendant, or sole surviving defendant where the right to sue survives,

the plaintiff may make an application^a to the Court, specifying the name, description and place of abode of any person whom he alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead.

The Court^b shall thereupon enter the name of such representative on the record in the place of such defendant,

and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit ;

and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit

Provided that the person so made defendant may object that he is not the legal representative of the deceased defendant, or may make any defence appropiate to his character as such representative.

When the plaintiff fails to make such application within the period prescribed therefore, the suit shall abate, unless he satisfies the Court that he had sufficient cause for not making the application within such period

Suit abated by marriage of female only

369. The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and, where the decree is against a female defendant, it may thereupon be executed against her alone.

If the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also ; and, in case of judgment for the wife, execution of the decree may with such permission be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree.

When plaintiff's bankruptcy or insolvency brings suit.

370. The bankruptcy or insolvency of a plaintiff in any suit which his assignee or the Receiver appointed under section 351 might maintain for the benefit of his creditors shall not bar the suit, unless such assignee or Receiver

^a See limitation of time for application. A. N. 1 1877. C. P. II, Article 171B, and C. P. II, Article 171C.

(Part II.—Of Incidental Proceedings. Chapter XXII.—Of the Withdrawal and Adjustment of Suits. Secs. 371-373.)

declines to continue the suit and to give security for the costs thereof within such time as the Court may order.

If the assignee or Receiver neglect or refuse to continue the suit and to give such security within the time so ordered, the defendant may apply for the dismissal of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may dismiss the suit and award to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

Procedure when assignee fails to continue suit or give security.

371. When a suit abates or is dismissed under this chapter, no fresh suit shall be brought on the same cause of action.

Effect of abatement or dismissal.

But the person claiming to be the legal representative of the deceased or bankrupt or insolvent plaintiff may apply^a for an order to set aside the order for abatement or dismissal; and, if it be proved that he was prevented by any sufficient cause from continuing the suit, the Court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

Application to set aside abatement or dismissal.

372. In other cases of assignment, creation or devolution of any interest pending the suit, the suit may, with the leave of the Court, given either with the consent of all parties or after service of notice in writing upon them, and hearing their objections, if any, be continued by or against the person to whom such interest has come either in addition to or in substitution for the person from whom it has passed, as the case may require.

Procedure in case of assignment pending suit.

CHAPTER XXII.^b

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

373. If, at any time after the institution of the suit, the Court is satisfied on the application of the plaintiff (a) that the suit must fail by reason of some formal defect, or (b) that there are sufficient grounds for permitting him to withdraw from the suit or to abandon part of his claim with liberty to bring a fresh suit for the subject-matter of the suit or in respect of the part so abandoned, the Court may grant such permission on such terms as to costs or otherwise as it thinks fit.

Power to allow plaintiff to withdraw with liberty to bring fresh suit.

^a For limitation of such applications, see Act XV of 1877, Schedule II, Article 171C, and section 3 of this Act.

^b This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part II.—Of Incidental Proceedings Chapter XXIII—Of Payment into Court. Secs. 374-379)

If the plaintiff withdraw from the suit, or abandon part of his claim, without such permission, he shall be liable for such costs as the Court may award, and shall be precluded from bringing a fresh suit for the same matter or in respect of the same part.

Nothing in this section shall be deemed to authorize the Court to permit one of several plaintiffs to withdraw without the consent of the others.

Limitation
law not
affected by
first suit.

374. In any fresh suit instituted on permission granted under the last preceding section, the plaintiff shall be bound by the law of limitation^a in the same manner as if the first suit had not been brought.

Compromise
of suits.

375. If a suit be adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfy the plaintiff in respect to the whole or any part of the matter of the suit, such agreement, compromise or satisfaction shall be recorded, and the Court shall pass a decree in accordance therewith so far as it relates to the suit, and such decree shall be final, so far as relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise or satisfaction.

CHAPTER XXIII.¹

OF PAYMENT INTO COURT.

Deposit by
defendant of
amount in
satisfaction
of claim.
Notice of
deposit.

376. The defendant in any suit to recover a debt or damages may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the claim.

377. Notice^c in writing of the deposit shall be given through the Court by the defendant to the plaintiff, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the plaintiff on his application.

Interest on
deposit not
allowed.
On full of
claim.

378. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or in full thereof.

When the
full amount
deposited
satisfies the
claim.

379. If the plaintiff accept such amount only as satisfaction in part of his claim, he may prosecute his suit for the balance; and if the Court decides that the deposit by the defendant was a full satisfaction of the plaintiff's claim, the plaintiff must pay the costs of the suit incurred after the deposit and the costs

^a See Act XV of 1877.

^b This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

^c For form of notice, see Schedule IV, N. 155, p. 100.

Part II—Of Incidental Proceedings Chapter XVII.—Of Requiring Security for Costs. Sec. 380.)

incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

If the plaintiff accept such amount as satisfaction in full of his claim, he shall present to the Court a statement to that effect, and such statement shall be filed and the Court shall pass judgment accordingly, and, in directing by whom the costs of each party are to be paid, the Court shall consider which of the parties is most to blame for the litigation.

Procedure—where he accepts it as satisfaction in full.

Illustrations.

(a) A owes B Rs. 100. B sues A for the amount, having made no demand for payment and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into Court. B accepts it in full satisfaction of his claim; but the Court should not allow him any costs, the litigation being presumably groundless on his part.

(b) B sues A under the circumstances mentioned in Illustration (a). On the plaint being filed, A disputes the claim. Afterwards A pays the money into Court. B accepts it in full satisfaction of his claim. The Court should also give B his costs of suit, A's conduct having shown that the litigation was necessary.

(c) A owes B Rs. 100 and is willing to pay him that sum without suit. B claims Rs. 150 and sues A for that amount. On the plaint being filed, A pays Rs. 100 into Court and disputes only his liability to pay the remaining Rs. 50. B accepts the Rs. 100 in full satisfaction of his claim. The Court should order him to pay A's costs.

CHAPTER XXIV.^a

OF REQUIRING SECURITY FOR COSTS.

380. If, at the institution or at any subsequent stage of a suit, it appears to the Court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of British India, and that such plaintiff does not, or that no one of such plaintiffs does, possess any sufficient immoveable property within British India independent of the property in suit, the Court may, either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give

When security for costs may be required from plaintiff at any stage of suit.

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule

(Part II.—Of Incidental Proceedings. Chapter XXV.—Of Commissions.
Secs. 381-386.)

security for the payment of all costs incurred and likely to be incurred by any defendant.

Effect of failure to furnish security.

381. In the event of such security not being furnished within the time so fixed, the Court shall dismiss the suit unless the plaintiff or plaintiffs be permitted to withdraw therefrom under the provisions of section 373.

Residence out of British India.

382. Whoever leaves British India under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs, shall be deemed to be residing out of British India within the meaning of section 350.

CHAPTER XXV.

OF COMMISSIONS.

A.—Commissions to examine Witnesses.

Cases in which Court may issue commission to examine witness.

383. Any Court may in any suit issue a commission for the examination *A.—Commissions to examine Witnesses.* on interrogatories or otherwise of persons resident within the local limits of its jurisdiction, who are exempted under this Code from attending the Court, on who are from sickness or infirmity unable to attend it.

Order for commission.

384. Such order may be made by the Court either of its own motion, or on the application, supported by affidavit or otherwise, of any party to the suit or of the witness to be examined.

When witness resides within Court's jurisdiction.

385. The commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same may be issued to any person whom the Court thinks fit to execute the same.

Persons for whose examination commission may issue.

386. Any Court may in any suit issue a commission^b for the examination of—

- (a) any person resident beyond the local limits of its jurisdiction;
- (b) persons who are about to leave such limits before the date on which they are required to be examined in Court; and
- (c) civil and military officers of Government who cannot, in the opinion of the Judge, attend the Court without detriment to the public service.

^a The order need not be in the form of a commission—see section 5 and the second schedule.

^b The chapter appears to be confined to the examination of witnesses in relation to criminal matters, paid or unpaid, in the local limits of British India, and in Portuguese India, the term "suit" being confined to civil suits, and not to criminal—see Act XXI of 1879, section 19, and Act IV of 1884, section 2, and Act III of 1884, Act.

^c For form of commission see Schedule IV, Nos. 16, 17, 18.

(Part II.—Of Incidental Proceedings. Chapter XXV.—Of Commissions.
Secs. 387-391.)

A.—Commissions to examine Witnesses.

Such commission may be issued to any Court, not being a High Court or the Court of the Recorder of Rangoon, within the local limits of whose jurisdiction such person resides, or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint.

The Court on issuing any commission under this section shall direct whether the commission shall be returned to itself or to any subordinate Court.

387. When any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India is satisfied that his evidence is necessary, the Court may issue such commission. Commission to examine witness not within British India.

388. Every Court receiving a commission for the examination of any person shall examine him pursuant thereto. Court to examine witness pursuant to commission.

389. After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) form part of the record of the suit. Return of commission with depositions of witnesses.

390. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless— When depositions may be read in evidence.

(a) the person who gave the evidence is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or

(b) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in the last preceding clause, and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

391. The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by— Provisions as to execution and return of commissions to apply to commissions issued by

(a) Courts situate beyond the limits of British India and established by the authority of Her Majesty or of the Governor General in Council, or

(Part II.—Of Incidental Proceedings. Chapter XXV.—Of Commissions.
Secs. 392-395.)

Foreign
Courts.

- (b) Courts situate in any part of the British Empire other than British India, or
(c) Courts of any foreign country for the time being in alliance with Her Majesty.

A.—Commissions to examine Witnesses.

B.—Commissions for local Investigations.

Commission
to make local
investigation.

392. In any suit or proceeding^a in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits, or damages or annual nett profits, and the same cannot be conveniently conducted by the Judge in person, the Court may issue a commission^b to such person as it thinks fit, directing him to make such investigation and to report thereon to the Court:

B.—Commissions for local Investigations.

Provided that, when the Local Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

Procedure of
Commissioner.

393. The Commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, signed with his name, to the Court.

Report and
depositions to
be evidence in
suit.

The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court, or, with the permission of the Court, any of the parties to the suit, may examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he has made the investigation.

Commissioner
may be
examined in
person.

C.—Commissions to examine Accounts.

Commission
to examine or
adjust
accounts.

394. In any suit in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person as it thinks fit, directing him to make such examination or adjustment.

C.—Commissions to examine Accounts.

Court to give
Commissioner
necessary
instructions.

395. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry or also to report his own opinion on the point referred for his examination.

^aFor power to order local inquiries to ascertain the rate of rent, and to determine incidents of tenancy, in Bank, &c.—see Act VIII of 1885, section 31, clause (b), and 158 & section 1.
^bFor form of commission, see Schedule IV. No. 157 *infra*.

(Part II.—Of Incidental Proceedings. Chapter XXV.—Of Commissions.
Secs. 396-398.)

C.—Commissions to examine accounts.

The proceedings of the Commissioner shall be received in evidence in the suit, unless the Court has reason to be dissatisfied with them, in which case the Court shall direct such further inquiry as is requisite.

Court to receive Commissioner's proceedings or direct further inquiry.

D.—Commission to make Partition.

D.—Commission to make Partition.

396. In any suit in which the partition of immoveable property^a not paying revenue to Government appears to the Court to be necessary, the Court, after ascertaining the several parties interested in such property and their several rights therein, may issue a commission to such persons as it thinks fit to make a partition according to such rights.

Commission to make partition of non-revenue-paying immoveable property.

The Commissioners shall ascertain and inspect the property, and shall divide the same into as many shares as may be directed by the order under which the commission issues, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

Procedure of Commissioners.

The Commissioners shall then prepare and sign a report, or (if they cannot agree) separate reports, appointing the share of each party, and distinguishing each share (if so directed by the said order) by metes and bounds. Such report or reports shall be annexed to the commission and transmitted to the Court; and the Court, after hearing any objections which the parties may make to the report or reports, shall either quash the same and issue a new commission, or (where the Commissioners agree in their report) pass a decree in accordance therewith.

E.—General Provisions.

E.—General Provisions.

397. Before issuing any commission under this chapter, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be, within a time to be fixed by the Court, paid into Court by the party at whose instance or for whose benefit the commission is issued.

Expenses of commission to be paid into Court.

398. Any Commissioner appointed under this chapter may, unless otherwise directed by the order of appointment,—

Powers of Commissioners.

- (a) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him;
- (b) call for and examine documents and other things relevant to the subject of inquiry;

^a See section 4, *supra*.

(Part III.—Of Suits in Particular Cases. Chapter XXVI.—Suits by Paupers.
Sees 399-403.)

(c) at any reasonable time enter upon or into any land or building mentioned in the order.

Attendance,
examination
and punish-
ment of wit-
nesses before
Commissioner.

399. The provisions of this Code relating to the summoning, attendance and examination of witnesses,^a and to the remuneration of, and penalties to be imposed upon, witnesses shall apply to persons required to give evidence or to produce documents under this chapter, whether the commission in execution of which they are so required has been issued by a Court situate within, or by a Court situate beyond, the limits of British India.

For the purposes of this section, the Commissioner shall be deemed to be a Court of Civil Judicature.

Court to
direct parties
to appear
before Com-
missioner.
Procedure
ex-parte.

400. Whenever a commission is issued under this chapter, the Court shall direct that the parties to the suit shall appear before the Commissioner in person or by their agents or pleaders.

If the parties do not so appear the Commissioner may proceed *ex-parte*.

PART III.

OF SUITS IN PARTICULAR CASES.

CHAPTER XXVI.

SUITS BY PAUPERS.

Suits may
be brought
*in forma
pauperis*.

401. Subject to the following rules, any suit may be brought by a pauper.

EXPLANATION.—A person is a “pauper” when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or, where no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing apparel and the subject-matter of the suit.

What suits
excepted.

402. No suit shall be brought by a pauper to recover compensation for loss of caste, libel, slander, abusive language or assault.

Application
to be in
writing.

403. The application^d for permission to sue by a pauper shall be in writing, and shall contain the particulars required by section 50 in regard to plaints in

^a See Chapters XIV and XV, *supra*.

^b This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

^c See Act VII of 1870.

^d For court-fee on such applications—see Act VII of 1870 Schedule II Article 2.

(Part III.—Of Suits in Particular Cases. Chapter XXVI.—Suits by Paupers.
Secs. 404-408.)

suits : a schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, shall be annexed thereto ; and it shall be signed and verified in the manner hereinbefore prescribed^a for the signing and verification of plaints. Contents of application.

404. Notwithstanding anything contained in section 36, the application shall be presented to the Court by the applicant in person, unless he is exempted from appearing in Court under section 640 or section 641, in which case the application may be presented by a duly authorized agent who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person. Presentation of application.

405. If the application be not framed or presented in the manner prescribed by sections 403 and 404, the Court shall reject it. Rejection of application.

406. If the application be in proper form and duly presented, the Judge may, if he thinks fit, examine the petitioner, or his agent, when the applicant is allowed to appear by agent, regarding the merits of the claim and the property of the applicant. Examination of applicant.

When the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be taken under the provisions of this Code.^b If presented by agent, Court may order applicant to be examined by commission.

407. If it appear to the Court—

- (a) that the applicant is not a pauper, or
 - (b) that he has, within the two months next before the presentation of the application, disposed of any property fraudulently or with a view to obtain the benefit of this chapter, or
 - (c) that his allegations do not show a right to sue in such Court, or
 - (d) that he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter,
- the Court shall reject the application. Rejection of application.

408. If the Court sees no reason to refuse the application on any of the grounds stated in section 407, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party and the Government Notice of day for receiving evidence of applicant's pauperism.

^a See sections 51 and 52, *supra*.

^b See Chapter XXV, *supra*.

(Part III.—Of Suits in Particular Cases. Chapter XXVI.—Suits by Paupers.
Secs. 409-413.)

Pleader) for receiving such evidence as the applicant may adduce in proof of his pauperism, and for hearing any evidence which may be adduced in disproof thereof:

Procedure at
hearing.

409.* On the day so fixed, or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party, and may cross-examine the applicant or his agent, and shall make a memorandum of the substance of their evidence.

The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the applicant is or is not subject to any of the prohibitions specified in section 107.

The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

Procedure if
application
admitted.

410. If the application be granted, it shall be numbered and registered, and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under Chapter V, except that the plaintiff shall not be liable to any court-fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

Costs when
pauper suc-
ceeds.

411. If the plaintiff succeed in the suit, the Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and such amount shall be a first charge on the subject-matter of the suit, and shall also be recoverable by the Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code.

Recovery of
court-fees.

Procedure
when pauper
fails.

412. If the plaintiff fails in the suit, or if he is discontinued, or if the suit is dismissed under section 97 or 98, the Court shall order the plaintiff, or any person made, under section 2, co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper;

and if it find that the suit was frivolous or vexatious, it may also punish the plaintiff with fine not exceeding one hundred rupees, or with imprisonment for a term which may extend to a month, or with both.

Refusal to
allow appli-
cant to sue
as pauper to
bar subse-

413. An order of refusal made under section 107 to allow the applicant to

* So much of this section as relates to the making of a memorandum does not apply to the chartered High Courts or to the Punjab Chief Court in the exercise of their original civil jurisdiction: see section 128 *infra*, and Act XVIII of 1884, section 106.

(Part III.—Of Suits in Particular Cases. Chapter XXVII.—Suits by or against Government or Public Officers. Secs. 414-419.)

sue as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to institute a suit in the ordinary manner in respect of such right, provided that he first pays the costs (if any) incurred by Government in opposing his application for leave to sue as a pauper. sequent appli-
cation of like
nature.

414. The Court may, on motion by the defendant, or by the Government Pleader, of which one week's notice in writing has been given to the plaintiff, order the plaintiff to be dispaupered— Dispauper-
ing.

- (a) if he is guilty of vexatious or improper conduct in the course of the suit;
- (b) if it appears that his means are such that he ought not to continue to sue as a pauper; or
- (c) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

415. The costs of an application for permission to sue as a pauper and of an inquiry into pauperism are costs in the suit. Costs.

CHAPTER XXVII.^a

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

416. Suits by or against the Government shall be instituted by or against (as the case may be) the Secretary of State for India in Council. Suits by or
against
Secretary of
State in
Council.

417. Persons being *ex officio* or otherwise authorized to act for Government in respect of any judicial proceeding shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of Government. Persons
authorized
to act for
Government.

418. In suits by the Secretary of State for India in Council, instead of inserting in the plaint^b the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words "The Secretary of State for India in Council." Plaints in
suits by
Secretary of
State in
Council.

419. The Government Pleader in any Court shall be the agent of the Gov-

Agent for
Government
to receive
process.

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

^b See section 50, *supra*.

(Part III.—Of Suits in Particular Cases. Chapter XXVII —Suits by or against Government or Public Officers. Secs. 420-426.)

ernment for the purpose of receiving processes against the said Secretary of State in Council issuing out of such Court.

Appearance
and answer
by Secretary
of State in
Council.

420. The Court, in fixing the day for the said Secretary of State in Council to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the said Secretary of State in Council or the Government, and may extend the time at its discretion.

Attendance
of person
able to
answer
questions
relating to
suit against
Government.
Service on
public
officers.

421. The Court may also, in any case in which the Government Pleader is not accompanied by any person on the part of the said Secretary of State in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

422. Where the defendant is a public officer, the Court may send a copy of the summons to the head of the office in which the defendant is employed, for the purpose of being served on him, if it appear to the Court that the summons may be most conveniently so served.

Extension of
time to
enable officer
to make
reference to
Government

423. If the public officer on receiving the summons considers it proper to make a reference to the Government before answering to the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel;

and the Court upon such application may extend the time for so long as appears to be requisite.

Notice
previous to
suing Secre-
tary of State
in Council or
public officer.

424. No suit shall be instituted against the said Secretary of State in Council, or against a public officer in respect of an act purporting to be done by him in his official capacity, until the expiration of two months next after notice in writing has been, in the case of the Secretary of State in Council, delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the District, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left.

Arrests in
such suits.

425. No warrant of arrest shall be issued in such suit without the consent in writing of the District Judge.

Application
where Gov-
ernment

426. If the Government undertakes the defence of a suit against a public

(Part III.—Of Suits in Particular Cases. Chapter XXVIII.—Suits by Aliens and by or against Foreign and Native Rulers. Secs. 427-430.)

officer, the Government Pleader, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the register.^a

undertakes
defence.

427. If such application is not made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

Procedure
where no
such appli-
cation made.
Defendant
not liable to
arrest before
judgment.

428. In a suit against a public officer in respect of such act as aforesaid, the Court shall exempt the defendant from appearing in person when he satisfies the Court that he cannot absent himself from his duty without detriment to the public service.

Exemption
of public
officers from
personal
appearance.

429. When the decree is against the said Secretary of State in Council or against a public officer in respect of such act as aforesaid, a time shall be specified in the decree within which it shall be satisfied; and, if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

Procedure
where decree
against Gov-
ernment
or public
officer.

Execution shall not issue on any such decree unless it remains unsatisfied for the period of three months computed from the date of the report.

CHAPTER XXVIII.^b

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

430. Alien enemies residing in British India with the permission of the Governor General in Council, and alien friends, may sue in the Courts of British India as if they were subjects of Her Majesty.

When aliens
may sue.

No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any of such Courts.

EXPLANATION.—Every person residing in a foreign country, the Government of which is at war with the United Kingdom of Great Britain and Ireland, and carrying on business in that country without a license in that behalf under the hand of one of Her Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of the second paragraph of this section, be deemed to be an alien enemy residing in a foreign country.

^a See section 58 (last clause), *supra*.

^b This chapter, except the first paragraph of section 433, extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part III.—Of Suits in Particular Cases. Chapter XXVIII.—Suits by Aliens and by or against Foreign and Native Rulers. Secs. 431-434.)

When Foreign
State may
sue.

431. A Foreign State may sue in the Courts of British India, provided that—

- (a) it has been recognized by Her Majesty or the Governor General in Council, and
- (b) the object of the suit is to enforce the private rights of the head or of the subjects of the Foreign State.

The Court shall take judicial notice of the fact that a Foreign State has not been recognized by Her Majesty or by the Governor General in Council.

Persons
specially ap-
pointed by
Government
to prosecute
or defend for
Princes or
Chiefs.

432. Persons specially appointed by order of Government at the request of any Sovereign Prince or ruling Chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without British India, to prosecute or defend any suit on his behalf, shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

Suits against
Sovereign
Princes, &c.

433. Any such Prince or Chief, and any ambassador or envoy of a Foreign State, may, with the consent of Government certified by the signature of one of its Secretaries (but not without such consent), be sued in any competent Court not subordinate to a District Court.

Such consent shall not be given unless—

- (a) the Prince, Chief, ambassador or envoy has instituted a suit in such Court against the person desiring to sue him; or
- (b) the Prince, Chief, ambassador or envoy, by himself or another, trades within the local limits of the jurisdiction of such Court; or
- (c) the subject-matter of the suit is immoveable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

Sovereign
Princes, &c.,
exempt from
arrest
When their
property may
be attached
Execution in
British India
of decrees of
Courts of
Native
States.

No such Prince, Chief, ambassador or envoy shall be arrested under this Code; and no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy unless with consent of Government certified as afore-said.

434. The Governor General in Council may from time to time, by notification in the *Gazette of India*,—

- (a) declare that the decrees of any Civil or Revenue Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, and not established by the authority of the Governor General in Council, may be executed in British India as if they had been made by the Courts of British India, and

(Part III.—Of Suits in Particular Cases. Chapter XXIX.—Suits by and against Corporations and Companies. Chapter XXX.—Suits by and against Trustees, Executors and Administrators. Secs. 435-437.)

(b) cancel any such declaration.

So long as such declaration remains in force, the said decrees may be executed accordingly.

CHAPTER XXIX.^a

SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

435. In suits by a Corporation, or by a Company authorized to sue and be sued in the name of an officer or of a trustee, the plaint may be subscribed and verified on behalf of the Corporation or Company by any director, secretary or other principal officer of the Corporation or Company, who is able to depose to the facts of the case. Subscription and verification of plaint.

436. When the suit is against a Corporation, or against a Company authorized to sue and be sued in the name of an officer or of a trustee, the summons may be served— Service on Corporation or Company.

(a) by leaving it at the registered office (if any) of the Corporation or Company, or

(b) by sending it by post in a letter addressed to such officer or trustee at the office (or if there be more offices than one, at the principal office in British India) of the Corporation or Company, or

(c) by giving it to any director, secretary or other principal officer of the Corporation or Company;

and the Court may require the personal appearance of any director, secretary or other principal officer of the Corporation or Company who may be able to answer material questions relating to the suit.

CHAPTER XXX.^b

SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

437.^c In all suits concerning property vested in a trustee, executor or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator— Representation of beneficiaries in suits concerning property vested in trustees, &c.

^{a, b} These chapters extend to Provincial Courts of Small Causes—see section 5 and the second schedule.

^c See Rule 7 of Order XVI in the first schedule to 38 & 39 Vic., cap. 77.

(Part III.—Of Suits in Particular Cases. Chapter XXXI.—Suits by and against Minors and Persons of unsound Mind. Secs. 438-443.)

tor shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit. But the Court may, if it thinks fit, order them or any of them to be made such parties.^a

Joinder of
executors
and adminis-
trators.

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them :

Provided that the executors who have not proved their testator's will, and executors and administrators beyond the local limits of the jurisdiction of the Court, need not be made parties.

Husband of
married
executrix not
to join.

439. Unless the Court directs otherwise, the husband of a married administratrix or executrix shall not be a party to a suit by or against her.

CHAPTER XXXI.^b

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

Minor must
sue by next
friend.

Costs.

Applications
to be made
by next
friend or
guardian
ad litem.
Plaint filed
without next
friend to be
taken off
file.

Costs.

440. Every suit by a minor shall be instituted in his name by an adult person, who in such suit shall be called the next friend of the minor, and may be ordered to pay any costs in the suit as if he were the plaintiff.

441. Every application to the Court on behalf of a minor (other than an application under section 449) shall be made by his next friend, or his guardian for the suit.

442. If a plaint be filed by or on behalf of a minor without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the pleader or other person by whom it was presented. Notice of such application shall be given to such person by the defendant; and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

Guardian *ad litem* to be
appointed by
Court.

443. Where the defendant to a suit is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor, to put in the defence for such minor, and generally to act on his behalf in the conduct of the case.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, section 3.

IX of 1875.

^a See Chapter III, *supra*.

^b This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part III.—Of Suits in Particular Cases. Chapter XXXI.—Suits by and against Minors and Persons of unsound Mind. Secs 444-451.)

444. Every order made in a suit or on any application before the Court, in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, if the pleader of a party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such pleader.

Order obtained without next friend or guardian may be discharged.

Costs.

445. Any person being of sound mind and full age may act as next friend of a minor, provided his interest is not adverse to that of such minor, and he is not a defendant in the suit.

Who may be next friend.

446. If the interest of the next friend of a minor is adverse to that of such minor, or if he is so connected with a defendant whose interest is adverse to that of the minor, as to make it unlikely that the minor's interest will be properly protected by him, or if he does not do his duty, or, pending the suit, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal; and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

Removal of next friend.

447. Unless otherwise ordered by the Court, a next friend shall not retire at his own request without first procuring a fit person to be put in his place, and giving security for the costs already incurred.

Retirement of next friend.

The application for the appointment of a new next friend shall be supported by affidavit showing the fitness of the person proposed, and also that he has no interest adverse to the minor.

Application for appointment of a new next friend.

448. On the death or removal of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

Stay of proceedings on death or removal of next friend.

449. If the pleader of such minor omits, within reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or the matter at issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit.

Application for appointment of new next friend.

450. A minor plaintiff, or a minor not a party to a suit on whose behalf an application is pending, on coming of age must elect whether he will proceed with the suit or application.

Course to be followed by minor plaintiff or applicant on coming of age.

451. If he elects to proceed with it, he shall apply for an order discharging the next friend, and for leave to proceed in his own name.

Where he elects to proceed.

(Part III.—Of Suits in Particular Cases. Chapter XXXI.—Suits by and against Minors and Persons of unsound Mind. Secs. 452-456.)

The title of the suit or application shall in such case be corrected so as to read thenceforth thus :

“ *A. B.*, late a minor, by *C. D.*, his next friend, but now of full age.”

Where he
elects to
abandon.
Costs.

452. If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, apply for an order to dismiss the suit or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

Making and
proving
applications
under
sections 451
and 452.

453. Any application under section 451 or section 452 may be made *ex-parte* ; and it must be proved by affidavit that the late minor has attained his full age.

When minor
co-plaintiff
coming of
age desires
to repudiate
suit.

454. A minor co-plaintiff on coming of age and desiring to repudiate the suit must apply to have his name struck out as co-plaintiff ; and the Court, if it finds that he is not a necessary party, shall dismiss him from the suit on such terms as to costs or otherwise as it thinks fit.

Costs.

Notice of the application shall be served on the next friend, as well as on the defendant ; and it must be proved by affidavit that the late minor has attained his full age. The costs of all parties of such application, and of all or any proceedings theretofore had in the suit, shall be paid by such persons as the Court directs.

If the late minor be a necessary party to the suit, the Court may direct him to be made a defendant.

When suit
unreasonable
or improper.

455. If any minor on attaining majority can prove to the satisfaction of the Court that a suit instituted in his name by a next friend was unreasonable or improper, he may, if a sole plaintiff, apply to have the suit dismissed.

Costs.

Notice of the application shall be served on all the parties concerned : and the Court, upon being satisfied of such unreasonableness or impropriety, may grant the application, and order the next friend to pay the costs of all parties in respect of the application and of anything done in the suit.

Petition for
appointment
of guardian
ad litem.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name and on behalf of the minor or by the plaintiff. Such application must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit adverse to that of the minor, and that he is a fit person to be so appointed.

Where there is no other person fit and willing to act as guardian for the

(Part III.—Of Suits in Particular Cases. Chapter XXXI.—Suits by and against Minors and Persons of unsound Mind. Secs. 457-464.)

suit, the Court may appoint any of its officers to be such guardian: provided that he has no interest adverse to that of the minor.

457. A co-defendant of sound mind and of full age may be appointed guardian for the suit, if he has no interest adverse to that of the minor; but neither a plaintiff, nor a married woman, can be so appointed.

Who may be guardian *ad litem*.

458. If the guardian for the suit of a minor defendant does not do his duty, or if other sufficient ground be made to appear, the Court may remove him, and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

Guardian neglecting his duty may be removed. Costs.

459. If the guardian for the suit dies pending such suit, or is removed by the Court, the Court shall appoint a new guardian in his place.

Appointment in place of guardian dying *pendente lite*. Guardian *ad litem* of minor representative of deceased judgment-debtor.

460. When the enforcement of a decree is applied for against the heir or representative, being a minor, of a deceased party, a guardian for the suit of such minor shall be appointed by the Court, and the decree-holder shall serve on such guardian notice of such application.

461. No sum of money or other thing shall be received or taken by a next friend or guardian for the suit on behalf of a minor, at any time before decree or order, unless he has first obtained the leave of the Court, and given security to its satisfaction that such money or other thing shall be duly accounted for to, and held for the benefit of, such minor.

Before decree, next friend or guardian *ad litem* not to receive money without leave of Court and giving security.

462. No next friend or guardian for the suit shall, without the leave of the Court, enter into any agreement or compromise on behalf of a minor, with reference to the suit in which he acts as next friend or guardian.

Next friend or guardian *ad litem* not to compromise without leave of Court. Compromise without leave voidable.

Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

463. The provisions contained in sections 440 to 462 (both inclusive) shall, *mutatis mutandis*, apply in the case of persons of unsound mind, adjudged to be so under Act No. XXXV of 1858, or under any other law for the time being in force.

Application of sections 440 to 462 to persons of unsound mind.

464. Nothing in sections 442 to 462 applies to any minor or person of unsound mind, for whose person or property a guardian or manager has been appointed by the Court of Wards or by the Civil Court under any local law.

Wards of Court.

(Part III.—Of Suits in Particular Cases. Chapter XXXII.—Suits by and against Military Men. Secs. 465-468.)

CHAPTER XXXII.^a

SUITS BY AND AGAINST MILITARY MEN.

Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.

465. When any officer or soldier actually serving the Government in a military capacity is a party to a suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

The authority shall be in writing and shall be signed by the officer or soldier in the presence of (a) his commanding officer, or the next subordinate officer, if the party be himself the commanding officer, or (b) where the officer or soldier is serving in military staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority, which shall be filed in Court.

When so filed, the countersignature shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

EXPLANATION.—In this chapter the expression "commanding officer" means the officer in actual command for the time being of any regiment, corps, detachment or dépôt to which the officer or soldier belongs.

Person so authorized may act personally or appoint pleader

466. Any person authorized by an officer or a soldier to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer or soldier could do if present; or he may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier.

Service on person so authorized, or on his pleader, to be good service

467. Processes served upon any person authorized by an officer or a soldier as in section 465, or upon any pleader appointed as aforesaid by such person to act for, or on behalf of, such officer or soldier, shall be as effectual as if they had been served on the party in person or on his pleader.

Service on officers and soldiers.

468. When an officer or a soldier is a defendant, the Court shall send a copy of the summons to his commanding officer for the purpose of being served on him.

The officer to whom such copy is sent, after causing it to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon.

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part III.—Of Suits in Particular Cases. Chapter XXXIII.—Interpleader.
Secs 469-472.)

If from any cause the copy cannot be so served, it shall be returned to the Court by which it was sent, with information of the cause which has prevented the service.

469. If, in the execution of a decree, a warrant of arrest or other process is to be executed within the limits of a cantonment, garrison, military station or military bazar, the officer charged with the execution of such warrant or other process shall deliver the same to the commanding officer.

Execution of
warrant of
arrest in can-
tonments,
&c.

The commanding officer shall back the warrant or other process with his signature, and, in the case of a warrant of arrest, if the person named therein is within the limits of his command, shall cause him to be arrested and delivered to the officer so charged.

CHAPTER XXXIII.^a

INTERPLEADER.

470. When two or more persons claim adversely to one another the same payment or property from another person, whose only interest therein is that of a mere stake-holder and who is ready to render it to the right owner, such stake-holder may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to whom the payment or property should be made or delivered, and of obtaining indemnity for himself:

When inter-
pleader suit
may be in-
stituted.

Provided that if any suit is pending in which the rights of all parties can properly be decided, the stake-holder shall not institute a suit of interpleader.

471. In every suit of interpleader the plaintiff must, in addition to the other statements necessary for plaintiffs,^b state—

Plaint in
such suit.

- (a) that the plaintiff has no interest in the thing claimed otherwise than as a mere stake-holder;
- (b) the claims made by the defendants severally; and
- (c) that there is no collusion between the plaintiff and any of the defendants.

472. When the thing claimed is capable of being paid into Court or placed

Payment of
thing claimed
into Court.

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

^b See section 50, *supra*. For form of plaintiff in such suits, see Schedule IV, No. 104, *infra*.

(Part III.—Of Suits in Particular Cases. Chapter XXXIII.—Interpleader.
Secs. 473-476.)

in the custody of the Court, the plaintiff must so pay or place it before he can be entitled to any order in the suit.

Procedure at
first hearing.

473. At the first hearing the Court may—

(a) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit;

or, if it thinks that justice or convenience so require,—

(b) retain all parties until the final disposal of the suit;

and, if it finds that the admissions of the parties or other evidence enable it,

(c) adjudicate the title to the thing claimed: or else it may

(d) direct the defendants to interplead one another by filing statements and entering into evidence for the purpose of bringing their respective claims before the Court, and shall adjudicate on such claims.

When agents
and tenants
may institute
interpleader-
suits.

474. Nothing in this chapter shall be taken to enable agents to sue their principals or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

Illustrations.

(a) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader-suit against A and C.

(b) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader-suit against A and C.

Charge of
plaintiff's
costs.

475. When the suit is properly instituted, the Court may provide for the plaintiff's costs by giving him a charge on the thing claimed or in some other effectual way.

Procedure
where de-
fendant is
suing stake-
holder.

476. If any of the defendants in an interpleader-suit is actually suing the stake-holder in respect of the subject of such suit, the Court in which the suit against the stake-holder is pending shall, on being duly informed by the Court which passed the decree in the interpleader-suit in favour of the stake-holder, that such decree has been passed, stay the proceedings as against him; and his costs in the suit so stayed may be provided for in such suit; but if, and so far as, they are not provided for in that suit, they may be added to his costs incurred in the interpleader-suit.

Costs.

(Part IV.—Provisional Remedies. Chapter XXXIV.—Of Arrest and Attachment before Judgment. Secs. 477-478.)

PART IV.

PROVISIONAL REMEDIES.

CHAPTER XXXIV.^a

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

*A.—Arrest
before Judgment*

477. If at any stage of any suit, other than a suit for the possession of immoveable property, the plaintiff satisfies the Court by affidavit or otherwise—

When plaintiff may apply that security be taken.

that the defendant, with intent to avoid or delay the plaintiff, or to avoid any process of the Court, or to obstruct or delay the execution of any decree that may be passed against him,

- (a) has absconded or left the jurisdiction of the Court, or
- (b) is about to abscond or to leave the jurisdiction of the Court, or
- (c) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the plaintiff may apply to the Court that security be taken for the appearance of the defendant to answer any decree that may be passed against him in the suit.

478. If the Court, after examining the applicant, and making such further investigation as it thinks fit, is satisfied—

Order to bring up defendant to show cause why he should not give security.

that the defendant, with any such intent as aforesaid,

- (a) has absconded or left the jurisdiction of the Court, or
- (b) is about to abscond or to leave the jurisdiction of the Court, or
- (c) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under the circumstances last aforesaid,

^a This chapter, except as regards immoveable property, extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part IV.—Provisional Remedies. Chapter XXXIV.—Of Arrest and Attachment before Judgment. Secs. 479-483.)

the Court may issue a warrant^a to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance. *A.—Arrest before Judgment.*

If defendant fail to show cause, Court may order him to make deposit or give security.

479. If the defendant fail to show such cause, the Court shall order him either to deposit in Court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit.

The surety shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

Procedure in case of application by surety to be discharged.

480. The surety for the appearance of the defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation.

On such application being made, the Court shall summon the defendant to appear, or, if it thinks fit, may issue a warrant for his arrest in the first instance.

On the appearance of the defendant, pursuant to the summons or warrant or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security.

Procedure where defendant fails to give security or find fresh security.

481. If the defendant fail to comply with any order under section 479 or section 480, the Court may commit^b him to jail until the decision of the suit, or, if judgment be given against the defendant, until the execution of the decree: provided that no person shall be imprisoned under this section in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees:

Provided that no person shall be detained in prison under this section after he has complied with such order.

Subsistence of defendants arrested.

482. The provisions of section 23^c as to allowances payable for the subsistence of judgment-debtors shall apply to all defendants arrested under this chapter.

B.—Attachment before Judgment.

Application before judgment for security from defendant to

483. If at any stage of any suit the plaintiff satisfies the Court by affi-

B.—Attachment before Judgment.

^a For form of warrant, see Schedule IV, No. 158, *infra*.

^b For form of order of committal, see Schedule IV, No. 159, *infra*.

(Part IV.—Provisional Remedies. Chapter XXXIV.—Of Arrest and Attachment before Judgment. Secs. 484-485.)

davit or otherwise that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,—

(a) is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the Court in which the suit is pending, or

(b) has quitted the jurisdiction of the Court, leaving therein property belonging to him,

the plaintiff may apply to the Court to call upon the defendant to furnish security to satisfy any decree that may be passed against him in such suit and, on his failing to give such security, to direct that any portion of his property within the jurisdiction of the Court shall be attached until the further order of the Court.

The application shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

484. If the Court, after examining the applicant and making any further investigation which it thinks fit, is satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of any decree that may be passed against him in the suit, or that he has with such intent quitted the jurisdiction of the Court, leaving therein property belonging to him, the Court may require^a him, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same,^b or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

The Court may also in the order direct the conditional attachment of the whole or any portion of the property specified in the application.

485. If the defendant fail to show cause why he should not furnish security, or fail to furnish the security required, within the time fixed by the Court, the Court may order^c that the property specified in the application, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, shall be attached.

If the defendant show such cause or furnish the required security, and the

satisfy decree, and in default for attachment of property.

Contents of application.

Court may call on defendant to furnish security or show cause.

Attachment if cause not shown or security not furnished.

Withdrawal of attachment.

^a For form of order, see Schedule IV, No. 160, *infra*.

^b See *Gazette of India*, 17th February 1883, Part I, page 119.

^c For form of order, see Schedule IV, No. 161, *infra*.

(Part IV.—Provisional Remedies. Chapter XXXIV.—Of Arrest and Attachment before Judgment. Secs. 486-491.)

property specified in the application or any portion of it has been attached, the Court shall order the attachment to be withdrawn.

B.—Attachment before Judgment.

Mode of making attachment.

486. The attachment shall be made in the manner herein provided^a for the attachment of property in execution of a decree for money.

Investigation of claims to property attached before judgment.

487. If any claim be preferred to the property attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for money.

Removal of attachment when security furnished or suit dismissed.

488. When an order of attachment before judgment is passed, the Court which passed the order shall remove the attachment whenever the defendant furnishes the security required, together with security for the costs of the attachment, or when the suit is dismissed.

Attachment not to affect rights of strangers, or bar decree-holder from applying for sale.

489. Attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Property attached under chapter not to be re-attached in execution of decree.

490. Where property is under attachment by virtue of the provisions of this chapter, and a decree is given in favour of the plaintiff, it shall not be necessary to re-attach the property in execution of such decree.

C.—Compensation for improper Arrests or Attachments.

Compensation for obtaining arrest or attachment on insufficient ground.

491. If in any suit in which an arrest or attachment has been effected, it appears to the Court that such arrest or attachment was applied for on insufficient grounds,

C.—Compensation for improper Arrests or Attachments.

or if the suit of the plaintiff fails, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the arrest or attachment :

Proviso.

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of such arrest or attachment.

^a See Chapter XIX—F, *supra*. For forms of orders see Schedule IV Nos. 112, 162, 163, 164 and 165, *infra*.

(Part IV.—Provisional Remedies. Chapter XXXV.—Of temporary Injunctions and Interlocutory Orders. Secs. 492-494.)

CHAPTER XXXV.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.^a

A.—Temporary Injunctions.

492. If in any suit it is proved by affidavit or otherwise—

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

Cases in which temporary injunction may be granted.

(b) that the defendant threatens, or is about, to remove or dispose of his property with intent to defraud his creditors,

the Court may, by order,^b grant a temporary injunction to restrain such act, or give such other order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as the Court thinks fit, or refuse such injunction or other order.

493. In any suit for restraining the defendant from committing a breach of contract or other injury, whether compensation be claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

Injunction to restrain repetition or continuance of breach.

The Court may, by order, grant such injunction on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit, or refuse the same.

In case of disobedience, an injunction granted under this section or section 492 may be enforced by the imprisonment of the defendant for a term not exceeding six months, or the attachment of his property, or both.

No attachment under this section shall remain in force for more than one year, at the end of which time, if the defendant has not obeyed the injunction, the property attached may be sold, and out of the proceeds the Court may award to the plaintiff such compensation as it thinks fit, and may pay the balance, if any, to the defendant.

494. The Court shall in all cases, except where it appears that the object of granting the injunction would be defeated by the delay, before granting an

Before granting injunction, Court to direct notice to opposite party.

^a See the Specific Relief Act, I of 1877, section 53, and section 3 of this Act.

^b For form of order, see Schedule IV, No. 166, *infra*.

(Part IV.—Provisional Remedies. Chapter XXXV.—Of temporary Injunctions and Interlocutory Orders. Secs. 495-499.)

injunction, direct notice^a of the application for the same to be given to the opposite party. *A.—Temporary Injunctions.*

Injunction to Corporation binding on its members and officers.

495. An injunction directed to a Corporation or public Company is binding not only on the Corporation or Company itself, but also on all members and officers of the Corporation or Company whose personal action it seeks to restrain.

Order for injunction may be discharged, varied or set aside.

496. Any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Compensation to defendant for issue of injunction on insufficient grounds.

497. If it appears to the Court that an injunction which it has granted was applied for on insufficient grounds, or

if, after the issue of the injunction, the suit is dismissed or judgment is given against the plaintiff by default or otherwise, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the issue of the injunction :

Proviso.

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of the issue of the injunction.

B.—Interlocutory Orders.

Power to order interim sale of perishable articles.

498. The Court may, on the application of any party to a suit, order the sale, by any person named in such order, and in such manner and on such terms as it thinks fit, of any moveable property, being the subject of such suit, which is subject to speedy and natural decay.

B.—Interlocutory Orders.

Power to make order for detention, &c., of subject matter,

499. The Court may, on the application of any party to a suit, and on such terms as it thinks fit, —

(a) make an order for the detention, preservation or inspection of any property being the subject of such suit ;

and to authorize entry, taking of samples and experiments.

(b) for all or any of the purposes aforesaid authorize any person to enter upon or into any land or building in the possession of any other party to such suit, and

^a For form of notice, see Schedule IV, No. 167, *infra*.

(Part IV.—Provisional Remedies. Chapter XXXVI.—Appointment of Receivers. Secs. 500-503.)

(c) for all or any of the purposes aforesaid, authorize any samples to be taken, or any observation to be made, or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

The provisions hereinbefore contained as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this section.

500. An application by the plaintiff for an order under section 498 or section 499 may be made, after notice in writing to the defendant, at any time after service of the summons. Application for such orders to be after notice.

An application by the defendant for a like order may be made after notice in writing to the plaintiff, and at any time after the applicant has appeared.

501. When land paying revenue to Government, or a tenure liable to sale, is the subject of a suit, if the party in possession of such land or tenure neglects to pay the Government-revenue, or the rent due to the proprietor of the tenure, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may, upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the land or tenure ; When party may be put in immediate possession of land the subject of suit.

and the Court in its decree may award against the defaulter the amount so paid, with interest thereupon at such rate as the Court thinks fit, or may charge the amount so paid, with interest thereupon at such rate as the Court orders, in any adjustment of accounts which may be directed in the decree passed in the suit.

502. When the subject-matter of a suit is money or some other thing capable of delivery, and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in Court or delivered to such last-named party, with or without security, subject to the further direction of the Court. Deposit of money, &c, in Court.

CHAPTER XXXVI.^a

APPOINTMENT OF RECEIVERS.

503. Whenever it appears to the Court to be necessary for the realization, Power of Court to appoint Receivers.

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part IV.—Provisional Remedies. Chapter XXXVI.—Appointment of Receivers. Secs. 504-505.)

preservation or better custody or management of any property, moveable or immoveable, the subject of a suit, or under attachment, the Court may, by order^a,—

- (a) appoint a Receiver of such property,
and, if need be,
- (b) remove the person in whose possession or custody the property may be from the possession or custody thereof;
- (c) commit the same to the custody or management of such Receiver and
- (d) grant to such Receiver such fee or commission on the rents and profits of the property by way of remuneration, and all such powers as to bringing and defending suits, and for the realization, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of instruments in writing, as the owner himself has, or such of those powers as the Court thinks fit.

Receiver's liabilities.

Every Receiver so appointed shall—

- (e) give such security^b (if any) as the Court thinks fit duly to account for what he shall receive in respect of the property;
- (f) pass his accounts at such periods and in such form as the Court directs;
- (g) pay the balance due from him thereon as the Court directs; and
- (h) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

Nothing in this section authorizes the Court to remove from the possession or custody of property under attachment any person whom the parties to the suit, or some or one of them, have or has not a present right so to remove.

When Collector may be appointed Receiver

504. Where the property is land paying revenue to Government, or land of which the revenue has been assigned or redeemed, and the Court considers that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be Receiver of such property.

Courts empowered under this chapter.

505. The powers conferred by this chapter shall be exercised only by High Courts and District Courts: provided that whenever the Judge of a Court

^a For form of order of appointment, see Schedule IV, No. 168, *infra*.

^b For form of bond, see Schedule IV, 169, *infra*.

(Part V.—Of Special Proceedings. Chapter XXXVII.—Reference to Arbitration. Secs. 506-509.)

subordinate to a District Court considers it expedient that a Receiver should be appointed in any suit before him, he shall nominate such person as he considers fit for such appointment, and submit such person's name, with the grounds for the nomination, to the District Court, and the District Court shall authorize such Judge to appoint the person so nominated, or pass such other order as it thinks fit.

PART V. OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.^a

REFERENCE TO ARBITRATION.

506. If all the parties to a suit desire that any matter in difference between them in the suit be referred to arbitration, they may, at any time before judgment is pronounced, apply, in person or by their respective pleaders specially authorized in writing in this behalf, to the Court for an order of reference.

Parties to suit may apply for order of reference.

Every such application shall be in writing and shall state the particular matter sought to be referred.

507. The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them.

Nomination of arbitrator.

If the parties cannot agree with respect to such nomination, or if the person whom they nominate refuses to accept the arbitration, and the parties desire that the nomination shall be made by the Court, the Court shall nominate the arbitrator.

When Court to nominate arbitrator.

508. The Court shall, by order,^b refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the delivery of the award, and specify such time in the order.

Order of reference.

When once a matter is referred to arbitration, the Court shall not deal with it in the same suit, except as hereinafter provided.

509. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators,—

When reference is to two or more, order to provide for dif-

(a) by the appointment of an umpire, or

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

^b For forms of orders, see Schedule IV, Nos. 170 and 171, *infra*.

(Part I.—Of Special Proceedings. Chapter XXXVII.—Reference to Arbitration. Secs. 510-514.)

ference of
opinion.

- (b) by declaring that the decision shall be with the majority, if the major part of the arbitrators agree, or
- (c) by empowering the arbitrators to appoint an umpire, or
- (d) otherwise, as may be agreed between the parties; or, if they cannot agree, as the Court determines.

If an umpire is appointed, the Court shall fix such time as it thinks reasonable for the delivery of his award in case he is required to act.

Death, in-
capacity, &c.,
of arbitrators
or umpire.

510. If the arbitrator, or, where there are more arbitrators than one, any of the arbitrators, or the umpire, dies, or refuses, or neglects or becomes incapable to act, or leaves British India under circumstances showing that he will probably not return at an early date, the Court may in its discretion either appoint a new arbitrator or umpire in the place of the person so dying or refusing, or neglecting, or becoming incapable to act, or leaving British India, or make an order superseding the arbitration, and in such case shall proceed with the suit.

Appointment
of umpire by
Court.

511. Where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven days after such notice has been served, or such further time as the Court may in each case allow, no umpire be appointed, the Court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

Powers of
arbitrator or
umpire ap-
pointed under
sections 509,
510, 511.

512. Every arbitrator or umpire appointed under section 509, section 510 or section 511 shall have the like powers as if his name had been inserted in the order of reference.

Summoning
witnesses.

513. The Court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire desire or desires to examine, as the Court may issue in suits tried before it.

Punishment
for default,
&c.

Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

Extension of
time for
making
award

514. If, from the want of the necessary evidence or information, or from any other cause, the arbitrators cannot complete the award within the period specified in the order, the Court may if it thinks fit, either grant a further

(Part V.—Of Special Proceedings. Chapter XXXVII.—Reference to Arbitration.* Secs. 515-520.)

time, and, from time to time, enlarge the period for the delivery of the award, or make an order superseding the arbitration, and in such case shall proceed with the suit.

Supersession of arbitration.

515. When an umpire has been appointed, he may enter on the reference in the place of the arbitrators,—

When umpire may arbitrate in lieu of arbitrators.

- (a) if they have allowed the appointed time to expire without making an award, or
- (b) when they have delivered to the Court or to the umpire a notice in writing, stating that they cannot agree.

516. When an award in a suit has been made, the persons who made it shall sign it and cause^a it to be filed in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing shall be given to the parties.

Award to be signed and filed.

517. Upon any reference by an order of the Court, the arbitrators or umpire may, with the consent of the Court, state the award as to the whole or any part thereof in the form of a special case for the opinion of the Court; and the Court shall deliver its opinion thereon; and such opinion shall be added to and form part of the award.

Arbitrators or umpire may state special case.

518. The Court may, by order, modify or correct an award,—

- (a) where it appears that a part of the award is upon a matter not referred to arbitration, provided such part can be separated from the other part and does not affect the decision on the matter referred, or
- (b) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision.

Court may, on application, modify or correct award in certain cases.

519. The Court may also make such order as it thinks fit respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

Order as to costs of arbitration.

520. The Court may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it thinks fit,—

When award or matter referred to arbitration may be remitted.

- (a) where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration;
- (b) where the award is so indefinite as to be incapable of execution;

^a For limitation of applications under this section, see Act XV of 1877, Schedule II, Article 176, and section 3 of this Act.

(Part V.—Of Special Proceedings. Chapter XXXVII.—Reference to Arbitration. Secs. 521-523.)

(c) where an objection to the legality of the award is apparent upon the face of it.

Grounds for
setting aside
award

521. An award remitted under section 520 becomes void on the refusal of the arbitrators or umpire to reconsider it. But no award shall be set aside^a except on one of the following grounds (namely) :—

(a) corruption or misconduct of the arbitrator or umpire ;

(b) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire ;

(c) the award having been made after the issue of an order by the Court superseding the arbitration and restoring the suit ;

and no award shall be valid unless made within the period allowed by the Court.

Judgment to
be according
to award.

522. If the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application has been made to set aside the award, or if the Court has refused such application,

the Court shall, after the time for making such application has expired,^a proceed to give judgment according to the award,

or, if the award has been submitted to it in the form of a special case, according to its own opinion on such case.

Decree to
follow.

Upon the judgment so given a decree shall follow, and shall be enforced in manner provided in this Code for the execution of decrees.^b No appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with, the award.

Agreement
to refer to
arbitration
may be filed
in Court.

523. When any persons agree in writing that any difference between them shall be referred to the arbitration of any person named in the agreement or to be appointed by any Court having jurisdiction in the matter to which the agreement relates, the parties thereto, or any of them, may apply^c that the agreement be filed in Court.

Application
to be num-
bered and
registered.

The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or

^a For limitation of applications to set aside an award, see Act XV of 1857, Schedule II, Article 158, and section 3 of this Act.

^b See Chapter XIX *supra*.

^c For court-fee on such applications, see Act VII of 1870, Schedule II, Article 18, and section 3 of this Act.

(Part V.—Of Special Proceedings. Chapter XXXVIII.—Of Proceedings on Agreement of Parties. Secs. 524-527.)

defendant, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

On such application being made, the Court shall direct notice thereof to be given to all the parties to the agreement other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

Notice to show cause against filing.

If no sufficient cause be shown, the Court may cause the agreement to be filed, and shall make an order of reference thereon, and may also nominate the arbitrator, when he is not named therein and the parties cannot agree as to the nomination.

524. The foregoing provisions of this chapter, so far as they are consistent with any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court under section 523, and to the award of arbitration and to the enforcement of the decree founded thereupon.

Provisions of chapter applicable to proceedings under order of reference.

525. When any matter has been referred to arbitration without the intervention of a Court of Justice, and an award has been made thereon, any person interested in the award may apply^a to the Court of the lowest grade having jurisdiction over the matter to which the award relates, that the award be filed in Court.

Filing award in matter referred to arbitration without intervention of Court.

The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

Application to be numbered and registered.

The Court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

Notice to parties to arbitration.

526. If no ground such as is mentioned or referred to in section 520 or section 521 be shown against the award, the Court shall order it to be filed, and such award shall then take effect as an award made under the provisions of this chapter.

Filing and enforcement of such award.

CHAPTER XXXVIII.^b

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. Parties claiming to be interested in the decision of any question of

Power to state case for Court's opinion.

^a For limitation of such applications, see Act XV of 1877, Schedule II, Article 176, and section 3 of this Act.

^b This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

(Part V.—Of Special Proceedings. Chapter XXXVIII.—Of Proceedings on Agreement of Parties. Secs. 528-531.)

fact or law, may enter into an agreement^a in writing stating such question in the form of a case for the opinion of the Court, and providing that, upon the finding of the Court with respect to such question,—

- (a) a sum of money fixed by the parties or to be determined by the Court shall be paid by one of the parties to the other of them; or
- (b) some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or
- (c) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

Every case stated under this section shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby.

When value of subject-matter must be stated.

528. If the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property to be delivered, or to which the act specified has reference, shall be stated in the agreement.

Agreement to be filed and numbered as suit.

529. The agreement, if framed in accordance with the rules hereinbefore contained, may be filed in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement.

The agreement, when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested, as plaintiff or plaintiffs, and the other or others of them as defendant or defendants; and notice shall be given to all the parties to the agreement, other than the party or parties by whom it was presented.

Parties to be subject to Court's jurisdiction.

530. When the agreement has been filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Hearing and disposal of case.

531. The case shall be set down for hearing as a suit instituted under Chapter V, the provisions of which shall apply to such suit so far as the same are applicable.

If the Court is satisfied, after an examination of the parties, or after taking such evidence as it thinks fit,—

- (a) that the agreement was duly executed by them, and
 - (b) that they have a *bona fide* interest in the question stated therein,
- and

^a For com-fee, see Act VII of 1870 Schedule II. Article 19 and section 3 of this Act

(Part V.—Of Special Proceedings. Chapter XXXIX.—Of Summary Procedure on Negotiable Instruments. Secs. 532-533.)

(c) that the same is fit to be decided,

it shall proceed to pronounce judgment thereon, in the same way as in an ordinary suit, and upon the judgment so given a decree shall follow and shall be enforced in the manner provided in this Code for the execution of decrees.^a

CHAPTER XXXIX.^b

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

532. In any Court to which this section applies, all suits upon bills of exchange, hundis or promissory notes may, in case the plaintiff desires to proceed under this chapter, be instituted by presenting a plaint in the form prescribed by this Code^c; but the summons shall be in the form contained in the fourth schedule hereto annexed, No. 172, or in such other form as the High Court may from time to time prescribe.

Institution of summary suits upon bills of exchange, &c.

In any case in which the plaint and summons are in such forms respectively, the defendant shall not appear or defend the suit unless he obtains leave from a Judge as hereinafter mentioned so to appear and defend;

and in default of his obtaining such leave, or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claims more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

The defendant shall not be required to pay into Court the sum mentioned in the summons, or to give security therefor, unless the Court thinks his defence not to be *prima facie* sustainable, or feels reasonable doubt as to its good faith.

Payment into Court of sum mentioned in summons.

EXPLANATION.—This section is not confined to cases in which the bill, hundi, or note sued upon, together with mere lapse of time, is sufficient to establish a *prima facie* right to recover.

533. The Court shall, upon application by the defendant, give leave to appear and to defend the suit, upon the defendant paying into Court the sum mentioned in the summons, or upon affidavits satisfactory to the Court, which

Defendant showing defence on merits to have leave to appear.

^a See Chapter XIX, *supra*.

^b For limitation of suits under this chapter, see Act XV of 1877, Schedule II, Article 5, and section 3 of this Act: for limitation of applications for leave to appear and defend a suit, see *ibid*, Article 159, and section 3 of this Act.

^c See section 50, *supra*.

(Part V.—Of Special Proceedings. Chapter XXXIX.—Of Summary Procedure on Negotiable Instruments. Secs. 534-538.)

disclose a defence or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as the Court thinks fit.

Power to set aside decree.

534. After decree, the Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons and to defend the suit, if it seem reasonable to the Court so to do, and on such terms as the Court thinks fit.

Power to order bill, &c., to be deposited with officer of Court

535. In any proceeding under this chapter the Court may order the bill, hundí or note on which the suit is founded to be forthwith deposited with an officer of the Court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

Recovery of cost of noting non-acceptance of dishonoured bill or note.

536. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this chapter for the recovery of the amount of such bill or note.

Procedure in suits under chapter.

537. Except as provided by sections 532 to 536 (both inclusive), the procedure in suits under this chapter shall be the same as the procedure in suits instituted under Chapter V.

Application of chapter.

538. Sections 532 to 537 (both inclusive) apply only to—

- (a) the High Courts of Judicature at Fort William, Madras and Bombay;
- (b) the Court of the Recorder of Rangoon;
- (c) the Courts of Small Causes in Calcutta, Madras and Bombay;
- (d) the Court of the Judge of Karáchi; and
- (e) any other Court having ordinary original civil jurisdiction to which the Local Government may, by notification in the official Gazette, apply them.

In case of such application the Local Government may direct by whom any of the powers and duties incident to the provisions so applied shall be exercised and performed, and make any rules which it thinks requisite for carrying into operation the provisions so applied.

Within one month after such notification has been published, such provisions shall apply accordingly, and the rules so made shall have the force of law.

The Local Government may, from time to time, alter or cancel any such notification.

(Part V.—Of Special Proceedings. Chapter XL.—Of Suits relating to Public Charities. Part VI.—Of Appeals. Chapter XLI.—Of Appeals from Original Decrees. Secs. 539-540.)

CHAPTER XL.

OF SUITS RELATING TO PUBLIC CHARITIES.

539. In case of any alleged breach of any express or constructive trusts created for public charitable or religious purposes, or whenever the direction of the Court is deemed necessary for the administration of any such trust, the Advocate General acting *ex officio*, or two or more persons having a direct^a interest in the trust and having obtained the consent in writing of the Advocate General, may institute a suit in the High Court or the District Court within the local limits of whose civil jurisdiction the whole or any part of the subject-matter of the trust is situate, to obtain a decree—

When suits relating to public charities may be brought

- (a) appointing new trustees under the trust ;
- (b) vesting any property in the trustees under the trust ;
- (c) declaring the proportions in which its objects are entitled ;
- (d) authorizing the whole or any part of its property to be let, sold, mortgaged or exchanged ;
- (e) settling a scheme for its management ;

or granting such further or other relief as the nature of the case may require.

The powers conferred by this section on the Advocate General may, outside the Presidency-towns, be, with the previous sanction of the Local Government, exercised also by the Collector or by such officer as the Local Government may appoint in this behalf.

Act No. X of 1840, section 2, is hereby repealed.

PART VI.

OF APPEALS.^b

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

540. Unless when otherwise expressly provided by this Code or by any

^a See I L. R., 7 All. 178.

^b For limitation of appeals, see Act XV of 1877, Schedule II, Articles 151, 152, 153 and 156, and section 3 of this Act.

For restrictions on appeals in suits for recovery of rent in Bengal, see Act VIII of 1885, section 153 and section 1.

Appeal to lie from all original decrees, except when expressly prohibited.

(Part VI.—Of Appeals. Chapter XLI.—Of Appeals from Original Decrees.
Secs. 541-545.)

other law for the time being in force, an appeal shall lie from the decrees, or from any part of the decrees, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts.

Form of
appeal.
What to
accompany
memorandum.

541. The appeal shall be made in the form of a memorandum^a in writing presented by the appellant, and shall be accompanied by a copy of the decree appealed against and (unless the Appellate Court dispenses therewith) of the judgment on which it is founded.

Contents of
memorandum.

Such memorandum shall set forth,^b concisely and under distinct heads, the grounds of objection to the decree appealed against, without any argument or narrative; and such grounds shall be numbered consecutively.

Appellant
confined to
grounds set
out.

542. The appellant shall not, without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant:

Provided that the Court shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

Rejection or
amendment of
memorandum.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended within a time to be fixed by the Court or be amended then and there.

When the Court rejects under this section any memorandum, it shall record the reasons for such rejection.

When a memorandum of appeal is amended under this section, the Judge, or such officer as he appoints in this behalf, shall attest the amendment by his signature.

One of several
plaintiffs or
defendants
may obtain
reversal of
whole de-
cree if it
proceed on
ground
common to
all.

544. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and thereupon the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants, as the case may be.

Of staying and executing Decrees under Appeal.

Execution of
decree not
stayed solely
by reason of
appeal.

545. Execution of a decree shall not be stayed by reason only of an appeal

*Of staying
and executing
Decrees under
Appeal.*

^a For form, see Schedule IV, No 173 *infra*.

^b See also section 591, *infra*.

(Part VI.—Of Appeals. Chapter XLI.—Of Appeals from Original Decrees
Secs. 546-548.)

*Of staying
and executing
Decrees under
Appeal*

having been preferred against the decree; but the Appellate Court may for sufficient cause order the execution to be stayed :

If an application be made for stay of execution of an appealable decree before the expiry of the time allowed for appealing therefrom, the Court which passed the decree may for sufficient cause order the execution to be stayed :

Stay of execution of appealable decree before time for appealing has expired

Provided that no order shall be made under this section unless the Court making it is satisfied—

- (a) that substantial loss may result to the party applying for stay of execution unless the order is made;
- (b) that the application has been made without unreasonable delay; and
- (c) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

546. If an order is made for the execution of a decree against which an appeal is pending, the Court which passed the decree shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property and for the due performance of the decree or order of the Appellate Court,

Security in case of order for execution of decree appealed against.

or the Appellate Court may for like cause direct the Court which passed the decree to take such security.

And when an order has been passed for the sale of immoveable property in execution of a decree for money, and an appeal is pending against such decree, the sale shall on the application of the judgment-debtor be stayed until the appeal is disposed of, on such terms as to giving security or otherwise as the Court which passed the decree thinks fit.

547. No such security as is mentioned in sections 545 and 546 shall be required from the Secretary of State for India in Council, or (when Government has undertaken the defence of the suit) from any public officer sued in respect of an act alleged to be done by him in his official capacity.

No such security to be required from Government or public officers.

Of Procedure in Appeal from Decrees.

*Of Procedure
in Appeal
from Decrees*

548. When a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of presentation, and shall register the appeal in a book to be kept for the purpose.

Registry of memorandum of appeal.

Such book shall be called the Register of Appeals.^a

Register of appeals.

^a For form, see Schedule IV, No. 174, *infra*, for power of chartered High Courts to alter that form, see section 644, *infra*

(Part VI.—Of Appeals. Chapter XLI.—Of Appeals from Original Decrees.
Secs. 549-553.)

Appellate Court may require appellant to give security for costs.

When appellant resides out of British India,

549. The Appellate Court may at its discretion, either before the respondent is called upon to appear and answer, or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal, or of the original suit, or of both :

Of Procedure in Appeal from Decrees.

Provided that the Court shall demand such security in all cases in which the appellant is residing out of British India, and is not possessed of any sufficient immoveable property within British India independent of the property (if any) to which the appeal relates.

If such security be not furnished within such time as the Court orders, the Court shall reject the appeal.

Appellate Court to give notice to Court whose decree appealed against. Transmission of papers to Appellate Court.

550. When the memorandum of appeal is registered, the Appellate Court shall send notice of the appeal to the Court against whose decree the appeal is made.

If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court receiving such notice shall send with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

Copies of exhibits in Court whose decree appealed against.

Either party may apply in writing to the Court against whose decree the appeal is made, specifying any of such papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of the applicant, and shall be deposited accordingly.

Power to confirm decision of lower Court without sending it notice.

551. The Appellate Court may, if it thinks fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the Court against whose decree the appeal is made, without sending notice of the appeal to such Court and without serving notice on the respondent or his pleader; but in such case the confirmation shall be notified to the same Court.

Day for hearing appeal.

552. The Appellate Court, unless where it confirms, under section 551, the decision of the lower Court, shall fix a day for hearing the appeal.

Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

Publication and service of notice of day for hearing appeal.

553. Notice^a of the day so fixed shall be stuck up in the Appellate Court-house, and a like notice shall be sent by the Appellate Court to the Court

^a For form of notice, see Schedule IV, No. 175, *infra*.

(Part VI.—Of Appeals. Chapter XLI.—Of Appeals from Original Decrees.
Secs. 554-559.)

*Of Procedure
in Appeal
from Decrees.*

against whose decree the appeal is made, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided in Chapter VI for the service on a defendant of a summons to appear and answer; and all rules applicable to such summons and to proceedings with reference to the service thereof shall apply to the service of such notice.

Instead of sending the notice to the Court against whose decree the appeal is made, the Appellate Court may itself cause the notice to be served on the respondent or his pleader under the rules above referred to.

Appellate Court may itself cause notice to be served.
Contents of notice.

554. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard *ex parte*.

Procedure on Hearing.

*Procedure on
Hearing.*

555. On the day so fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

Right to be-
gin.

556. If on the day so fixed, or any other day to which the hearing may be adjourned, the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

Dismissal of
appeal for ap-
pellant's de-
fault.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

Hearing ap-
peal *ex parte*.

557. If on the day so fixed, or any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed by the Court, the sum required to defray the cost of issuing the notice, the Court may order that the appeal be dismissed:

Dismissal of
appeal where
notice not
served in
consequence
of appellant's
failure to
deposit cost.

Provided that no such order shall be passed, although the notice has not been served upon the respondent, if on the day fixed for hearing the appeal the respondent appears in person or by a pleader, or by a duly authorized agent.

Proviso.

558. If an appeal be dismissed under section 556 or section 557, the appellant may apply to the Appellate Court for the re-admission of the appeal; and if it be proved that he was prevented by any sufficient cause from attending when the appeal was called on for hearing, or from depositing the sum so required, the Court may re-admit the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

Re-admission
of appeal dis-
missed for
default.

559. If it appear to the Court at the hearing that any person who was a

Power to ad-

(Part VI.—Of Appeals. Chapter XLI.—Of Appeals from Original Decrees.
Secs. 560-564.)

jour hearing, and direct persons appearing interested to be made respondents.

Re-hearing on application of respondent against whom *ex parte* decree made.

Upon hearing, respondent may object to decree as if he had preferred separate appeal.

Form of notice, and provisions applicable thereto. Remand of case by Appellate Court.

When further evidence barred.

Limit to remand.

party to the suit in the Court against whose decree the appeal is made, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court, and direct that such person be made a respondent.

Procedure on Hearing.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may apply to the Appellate Court to re-hear the appeal; and if he satisfies the Court that the notice was not duly served, or that he was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

561. Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below, but take any objection^a to the decree which he could have taken by way of appeal, provided he has filed a notice of such objection not less than seven days before the date fixed for the hearing of the appeal.

Such objection shall be in the form of a memorandum, and the provisions of section 541, so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

562. If the Court against whose decree the appeal is made has disposed of the suit upon a preliminary point so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties, and the decree upon such preliminary point is reversed in appeal, the Appellate Court may, if it thinks fit, by order, remand the case, together with a copy of the order in appeal, to the Court against whose decree the appeal is made, with directions to re-admit the suit under its original number in the register^b and proceed to investigate the suit on the merits.

The Appellate Court may, if it thinks fit, direct what issue or issues shall be tried in any case so remanded.

563. When a case is remanded with directions to take any evidence so excluded, the Court to which the case is remanded shall not take any other evidence in the case, except evidence tendered to contradict the evidence so taken.

564. The Appellate Court shall not remand a case for a second decision except as provided in section 562.

^a As to payment of court-fee, see Act VII of 1870, section 16, and section 3 of this Act.

^b See section 58 (last clause), *supra*.

(Part VI.—Of Appeals. Chapter XLI.—Of Appeals from Original Decrees.
Secs. 565-569.)

*Procedure on
Hearing.*

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court shall, after re-setting the issues, if necessary, finally determine the case, notwithstanding that the judgment of the Court against whose decree the appeal is made has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

When evidence on record sufficient, Appellate Court shall determine case finally.

566. If the Court against whose decree the appeal is made has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate Court essential to the right decision of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question, the Appellate Court may frame issues for trial, and may refer the same for trial to the Court against whose decree the appeal is made, and in such case shall direct such Court to take the additional evidence required,

When Appellate Court may frame issues and refer them for trial to Court whose decree appealed against.

and such Court shall proceed to try such issues, and shall return to the Appellate Court its finding thereon together with the evidence.

567. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, present a memorandum of objections to the finding.

Finding and evidence to be put on record. Objections to finding.

After the expiration of the period fixed for presenting such memorandum, the Appellate Court shall proceed to determine the appeal.

Determination of appeal.

568. The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if—

Production of additional evidence in Appellate Court.

(a) the Court against whose decree the appeal is made refuses to admit evidence which ought to have been admitted, or

(b) the Appellate Court requires any document to be produced, for^a any witness to be examined, to enable it to pronounce judgment; or for any other substantial cause,

the Appellate Court may allow such evidence to be produced, or document to be received, or witness to be examined.

Whenever additional evidence is admitted by an Appellate Court, the Court shall record on its proceedings the reason for such admission.

569. Whenever additional evidence is allowed to be received, the Appellate Court may either take such evidence, or direct the Court against whose decree

Mode of taking additional evidence.

^a Sec. Read 'or.'

(Part VI.—Of Appeals. Chapter XLI.—Of Appeals from Original Decrees.
Secs. 570-575.)

the appeal is made, or any other subordinate Court, to take such evidence and to send it when taken to the Appellate Court. *Procedure on Hearing.*

Points to be defined and recorded.

570. In all cases where additional evidence is directed or allowed to be taken, the Appellate Court shall specify the points to which the evidence is to be confined, and record on its proceedings the points so specified.

Of the Judgment in Appeal.

Judgment when and where pronounced.

571. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their pleaders. *Of the Judgment in Appeal.*

Language of judgment.

572. The judgment shall be written in English; provided that if English is not the mother-tongue of the Judge, and he is not able to write an intelligible judgment in English, the judgment shall be written in his mother-tongue or in the language of the Court.

Translation of judgment.

573. When the language in which the judgment is written is not the language of the Court, the judgment shall, if any party so require, be translated into such language, and the translation, after it has been ascertained to be correct, shall be signed by the Judge or such officer as he appoints in this behalf.

Contents of judgment

574. The judgment of the Appellate Court shall state—

- (a) the points for determination;
- (b) the decision thereupon;
- (c) the reasons for the decision; and
- (d) when the decree appealed against is reversed or varied, the relief to which the appellant is entitled,

Dated and signed

and shall at the time that it is pronounced be signed and dated by the Judge or by the Judges concurring therein.

Decision when made heard by two or more Judges

575.¹ When the appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

If there be no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed:

Provided that if the Bench hearing the appeal is composed of two Judges

¹ As to repeal of portion of this section in Ajmer and Merwara, see the Ajmer Courts Regulation, 1 of 1877, section 2, and section 3 of this Act.

(Part FI.—Of Appeals. Chapter XLI. Of Appeals from Original Decrees.
Secs. 576-579.)

Of the Judgment in Appeal.

belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, the appeal may be referred to one or more of the other Judges of the same Court, and shall be decided according to the opinion of the majority (if any) of all the Judges who have heard the appeal, including those who first heard it.

When there is no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed.

The High Court may, from time to time, make rules consistent with this Code to regulate references under this section.

576. When the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same. Dissent to be recorded.

577. The judgment may be for confirming, varying or reversing the decree against which the appeal is made, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be passed in appeal, the Appellate Court may pass a decree or order accordingly. What judgment may direct.

578. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal, on account of any error, defect or irregularity, whether in the decision or in any order passed in the suit, or otherwise, not affecting the merits of the case or the jurisdiction of the Court. No decree to be reversed or modified for error or irregularity not affecting merits or jurisdiction.

Of the Decree in Appeal.

Of the Decree in Appeal.

579.^a The decree^b of the Appellate Court shall bear date the day on which the judgment was pronounced. Date and contents of decree.

The decree shall contain the number of the appeal, and the memorandum of appeal, including the names and description of the appellant and respondent, and shall specify clearly the relief granted or other determination of the appeal.

The decree shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the suit are to be paid.

The decree shall be signed and dated by the Judge or Judges who passed it:

^a This section does not apply to the chartered High Courts or to the Panjáb Chief Court in the exercise of their appellate jurisdiction—see section 638, *infra*, and Act XVIII of 1834, section 16 (3).

^b For form of decree, see Schedule IV, No. 176, *infra*.

(Part VI.—Of Appeals. Chapter XLII.—Of Appeals from Appellate Decrees.
Secs. 580-584.)

Judge dis-
senting from
judgment
need not
sign decree.

Copies of
judgment
and decree
to be fur-
nished to
parties.
Certified
copy of de-
cree to be
sent to Court
whose de-
cree appealed
against.

Appellate
Court to
have same
powers as
Courts of
original ju-
risdiction.

Execution of
decree of
Appellate
Court.

Provided that, where there are more Judges than one, if there be a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

580. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the Court and at their expense.

581. A copy of the judgment and of the decree, certified by the Appellate Court or such officer as it appoints in this behalf, shall be sent to the Court which passed the decree appealed against, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the register of civil suits.^a

582. The Appellate Court shall have, in appeals under this chapter, the same powers, and shall perform as nearly as may be the same duties, as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted under Chapter V; and, in Chapter XXI, so far as may be, the words "plaintiff," "defendant" and "suit" shall be held to include an appellant, a respondent and an appeal, respectively, in proceedings arising out of the death, marriage or insolvency of parties to an appeal.

The provisions hereinbefore contained shall apply to appeals under this chapter so far as such provisions are applicable.

583. When a party entitled to any benefit (by way of restitution or otherwise) under a decree passed in an appeal under this chapter desires to obtain execution of the same, he shall apply to the Court which passed the decree against which the appeal was preferred; and such Court shall proceed to execute the decree passed in appeal, according to the rules hereinbefore prescribed^b for the execution of decrees in suits.

CHAPTER XLII.

OF APPEALS FROM APPELLATE DECRIES.

Second ap-
peals to High
Court.

584.^d Unless when otherwise provided by this Code or by any other law, from all decrees passed in appeal by any Court subordinate to a High Court,

^a See section 58 (last clause), *supra*.

^b See Chapter XIX, *supra*.

^c As to repeal of this chapter in Ajmer and Merwara, see the Ajmer Courts Regulation, I of 1877, section 2 and section 3 of this Act.

^d For modified section substituted for the Andaman and Nicobar Islands, see the Andaman and Nicobar Islands Regulation, I of 1884, section 4.

(Part VI.—Of Appeals. Chapter XLIII.—Of Appeals from Orders.
Secs. 585-588.)

an appeal shall lie to the High Court on any of the following grounds (namely) :—

- (a) the decision being contrary to some specified law or usage having the force of law ; Grounds of second appeal.
- (b) the decision having failed to determine some material issue of law or usage having the force of law ;
- (c) a substantial error or defect in the procedure as prescribed by this Code or any other law, which may possibly have produced error or defect in the decision of the case upon the merits.

585.^a No second appeal shall lie except on the grounds mentioned in section 584. Second appeal on no other grounds.

586.^{a, b} No second appeal shall lie in any suit of the nature cognizable in Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed five hundred rupees. No second appeal in certain suits.

587. The provisions contained in Chapter XLI shall apply, as far as may be, to appeals under this chapter,^c and to the execution of decrees passed in such appeals. Provisions as to second appeal.

CHAPTER XLIII.

OF APPEALS FROM ORDERS

588. An appeal shall lie from the following orders under this Code, and from no other such orders :— Orders appealable.

- (1) orders under section 20, staying proceedings in a suit ;
- (2) orders under section 32, striking out or adding the name of any person as plaintiff or defendant ;
- (3) orders under section 36 or section 66, directing that a party shall appear in person ;
- (4) orders under section 44, adding a cause of action ;
- (5) orders under section 47, excluding a cause of action ;

^a For amendments in these sections as applicable to Coorg, see the Coorg Courts Regulation, I of 1885, section 9.

^b This section has been repealed in the Andaman and Nicobar Islands—see the Andaman and Nicobar Islands Regulation, I of 1884, section 4.

^c For further power of the High Court in Bengal as to settlement of rent, see Act VIII of 1885, section 108 (3) and section 1.

^d Form of register of appeals from appellate decrees, see Schedule IV, No 177, *infra*; and for power of chartered High Court to alter that form, see section 644, *infra*

(Part VI—Of Appeals. Chapter XLIII.—Of Appeals from Orders. Sec. 558.)

(6) orders returning plaints for amendment or to be presented to the proper Court ;

(7) orders under section 111, setting-off, or refusing to set-off, one debt against another ;

(8) orders rejecting applications under section 103 (in cases open to appeal) for an order to set aside the dismissal of a suit ;

(9) orders rejecting applications under section 108, for^a an order to set aside a decree *ex parte* ;

(10) orders under sections 113, 120 and 177 ;

(11) orders under section 116 or section 215, rejecting, or returning for amendment, written statements or applications for execution of decrees ;

(12) orders under sections 143 and 115, directing anything to be impounded ;

(13) orders under section 162, for the attachment and sale of moveable property ;

(14) orders under section 168, for attachment of property, and orders under section 170, for the sale of attached property ;

(15) orders under section 261, as to objections to draft-conveyances or draft-endorsements ;

(16) orders under section 291, the first paragraph of section 312 or section 313, for confirming, or setting aside, or refusing to set aside, a sale of immoveable property ;

(17) orders in insolvency-matters, under section 351, section 352, section 353 or section 357 ;

(18) orders under section 366, paragraph 2, section 367 or section 368 ;

(19) orders rejecting applications under section 370, for dismissal of a suit ;

(20) orders under section 371, refusing to set aside the abatement or dismissal of a suit ;

(21) orders disallowing objections under section 372 ;

(22) orders under section 454, section 455 or section 158, directing a next friend or guardian for the suit to pay costs ;

(23) orders in interpleader-suits under section 473, clause (a), (b) or (d), section 475 or section 176 ;

(24) orders under section 479, section 180, section 485, section 192, section 493, section 496, section 497, section 502 or section 503 ;

^a See *Gazette of India*, 19th August, 1892, Part I, page 355.

(Part VI—Of Appeals. Chapter XLIV.—Of Pauper Appeals. Secs. 589-592.)

- (25) orders under section 514, superseding an arbitration ;
- (26) orders under section 518, modifying an award ;
- (27) orders of refusal, under section 558, to re-admit, or under section 560, to re-hear, an appeal ;
- (28) orders under section 562, remanding a case ;
- (29) orders under any of the provisions of this Code imposing fines, or for the arrest or imprisonment of any person, except when such imprisonment is in execution of a decree.

The orders passed in appeals under this section shall be final.

589. An appeal from any order specified in section 588, clauses (15), (16) and (17), shall lie to the High Court. What Courts to hear appeals.

When an appeal from any other order is allowed by this chapter, it shall lie to the Court to which an appeal would lie from the decree in the suit in relation to which such order was made, or, when such order is passed by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.

590. The procedure prescribed in Chapter XLI shall, so far as may be, apply to appeals from orders under this Code, or under any special or local law in which a different procedure is not provided. Procedure in appeals from orders.

591. Except as provided in this chapter, no appeal shall lie from any order passed by any Court in the exercise of its original or appellate jurisdiction ; but if any decree be appealed against, any error, defect or irregularity in any such order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal. No other appeal from orders ; but error therein may be set forth in memorandum of appeal against decree.

CHAPTER XLIV.

OF PAUPER APPEALS.

592. Any person entitled under this Code or any other law to prefer an appeal, who is unable to pay the fee required for the petition of appeal, may, on presenting an application^a accompanied by a memorandum of appeal, be allowed to appeal as a pauper, subject to the rules contained in Chapters XXVI, XLI, XLII and XLIII, in so far as those rules are applicable : Who may appeal as pauper.

Provided that the Court shall reject the application, unless, upon a perusal Procedure on application for admission of appeals.

^a For court-fee on such applications, see Act VII of 1870, Schedule II, Article 3 : for limitation, see Act XV of 1877, Schedule II, Article 170.

(Part VI.—Of Appeals. Chapter XLV.—Of Appeals to the Queen in Council.
Secs. 593-596.)

thereof and of the judgment and decree against which the appeal is made, it sees reason to think that the decree appealed against is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.

Inquiry into
pauperism

593. The inquiry into the pauperism of the applicant may be made either by the Appellate Court or by the Court against whose decision the appeal is made under the orders of the Appellate Court :

Proviso.

Provided that, if the applicant was allowed to sue or appeal as a pauper in the Court against whose decree the appeal is made, no further inquiry in respect of his pauperism shall be necessary, unless the Appellate Court sees special cause to direct such inquiry.

CHAPTER XLV.

OF APPEALS TO THE QUEEN IN COUNCIL.

"Decree"
defined.

594. In this chapter, unless there be something repugnant in the subject or context, the expression "decree" includes also judgment and order.

When appeals
lie to Queen
in Council.

595. Subject to such rules as may, from time to time, be made by Her Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained,

an appeal shall lie to Her Majesty in Council—

- (a) from any final decree passed on appeal by a High Court^a or any other Court of final appellate jurisdiction ;
- (b) from any final decree passed by a High Court^b in the exercise of original civil jurisdiction, and
- (c) from any decree, when the case, as hereinafter provided, is certified to be a fit one for appeal to Her Majesty in Council.

Value of
subject-
matter.

596. In each of the cases mentioned in clauses (a) and (b) of section 595, the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to Her Majesty in Council must be the same sum or upwards,

or the decree must involve, directly or indirectly, some claim or question to, or respecting, property of like amount or value,

and where the decree appealed from affirms the decision of the Court

^a b High Court here includes the Recorder of Rangoon—see section 611 *infra*

(Part VI.—Of Appeals. Chapter XLV.—Of Appeals to the Queen in Council.
Secs. 597-602.)

immediately below the Court passing such decree, the appeal must involve some substantial question of law.

597. Notwithstanding anything contained in section 595,

Bar of certain appeals.

no appeal shall lie to Her Majesty in Council from the judgment of one Judge of a High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being ;

24 & 25 Vic.,
cap 104.

and no appeal shall lie to Her Majesty in Council from any decree which, under section 586, is final.

598. Whoever desires to appeal under this chapter to Her Majesty in Council must apply by petition to the Court whose decree is complained of.

Application to Court whose decree complained of.

599. Such application must ordinarily be made within six months^a from the date of such decree.

Time within which application must be made.

But if that period expires when the Court is closed, the application may be made on the day that the Court re-opens.

600. Every petition under section 598 must state the grounds of appeal, and pray for a certificate, either that, as regards amount or value and nature, the case fulfils the requirements of section 596, or that it is otherwise a fit one for appeal to Her Majesty in Council.

Certificate as to value or fitness.

Upon receipt of such petition, the Court may direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

601. If such certificate be refused, the petition shall be dismissed :

Provided that, if the decree complained of be a final decree passed by a Court other than a High Court, the order refusing the certificate shall be appealable, within thirty days from the date of the order,^b to the High Court to which the former Court is subordinate.

Effect of refusal of certificate.

602. If the certificate be granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the grant of the certificate, whichever is the later date,—

Security and deposit required on grant of certificate.

(a) give security for the costs of the respondent, and

^a Compare Act XV of 1877, Schedule II, Article 177.

^b Compare Act XV of 1877, Schedule II, Article 153.

(Part VI.—Of Appeals Chapter XLV.—Of Appeals to the Queen in Council.
Secs. 603-606.)

(b) deposit the amount required to defray the expense of translating, transcribing, indexing and transmitting to Her Majesty in Council a correct copy of the whole record of the suit, except—

- (1) formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being ;
- (2) papers which the parties agree to exclude ;
- (3) accounts, or portions of accounts, which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included ; and
- (4) such other documents as the High Court may direct to be excluded ;

and when the applicant prefers to print in India the copy of the record except as aforesaid, he shall also, within the time mentioned in the first clause of this section, deposit the amount required to defray the expense of printing such copy.

Admission of
appeal and
procedure
thereon.

603. When such security has been completed and deposit made to the satisfaction of the Court, the Court may—

- (a) declare the appeal admitted, and
- (b) give notice thereof to the respondent, and shall then
- (c) transmit to Her Majesty in Council, under the seal of the Court, a correct copy of the said record, except as aforesaid, and
- (d) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor and paying the reasonable expenses incurred in preparing them.

Revocation
of acceptance
of security.

604. At any time before the admission of the appeal, the Court may, upon cause shown, revoke the acceptance of any such security, and make further directions thereon.

Power to
order further
security or
payment.

605. If at any time after the admission of the appeal, but before the transmission of the copy of the record, except as aforesaid, to Her Majesty in Council, such security appears inadequate,

or further payment is required for the purpose of translating, transcribing, printing, indexing or transmitting the copy of the record, except as aforesaid, the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

Effect of
failure to
comply with
order.

606. If the appellant fail to comply with such order, the proceedings shall be stayed,

(Part VI.—Of Appeals. Chapter XLV.—Of Appeals to the Queen in Council.
Secs. 607-610.)

and the appeal shall not proceed without an order in this behalf of Her Majesty in Council,
and in the meantime execution of the decree appealed against shall not be stayed.

607. When the copy of the record, except as aforesaid, has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under section 602. Refund of balance of deposit.

608. Notwithstanding the admission of any appeal under this chapter, the decree appealed against shall be unconditionally enforced, unless the Court admitting the appeal otherwise directs. Powers of Court pending appeal.

But the Court may, if it thinks fit, on any special cause shown by any party interested in the suit, or otherwise appearing to the Court,—

- (a) impound any moveable property in dispute or any part thereof, or
- (b) allow the decree appealed against to be enforced, taking such security from the respondent as the Court thinks fit for the due performance of any order which Her Majesty in Council may make on the appeal, or
- (c) stay the execution of the decree appealed against, taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed against, or of any order which Her Majesty in Council may make on the appeal, or
- (d) place any party seeking the assistance of the Court under such conditions, or give such other direction respecting the subject-matter of the appeal, as it thinks fit.

609. If, at any time during the pendency of the appeal, the security so furnished by either party appears inadequate, the Court may, on the application of the other party, require further security. Increase of security found inadequate.

In default of such further security being furnished as required by the Court, if the original security was furnished by the appellant, the Court may, on the application of the respondent, issue execution of the decree appealed against as if the appellant had furnished no such security.

And if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay all further execution of the decree, and restore the parties to the position in which they respectively were when the security which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

610. Whoever desires to enforce or to obtain execution of any order of Procedure to

(Part VI.—Of Appeals. Chapter XLV.—Of Appeals to the Queen in Council.
Secs. 611-612.)

enforce or-
ders of Queen
in Council.

Her Majesty in Council shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed, to the Court from which the appeal to Her Majesty was preferred.

Such Court shall transmit the order of Her Majesty to the Court which made the first decree appealed from, or to such other Court as Her Majesty by her said order may direct, and shall (upon the application of either party) give such directions as may be required for the enforcement or execution of the same; and the Court to which the said order is so transmitted shall enforce or execute it accordingly, in the manner and according to the rules applicable to the execution of its original decrees.^a

When any moneys expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.

Appeal
against order
relating to
execution.

611. The orders made by the Court which enforces or executes the order of Her Majesty in Council, relating to such enforcement or execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the enforcement or execution of its own decrees.

Power to
make rules.

612. The High Court^b may, from time to time, make rules consistent with this Act to regulate—

- (a) the service of notices under section 600;
- (b) the grant or refusal of certificates, under sections 601 and 602, by Courts of final appellate jurisdiction subordinate to the High Court;
- (c) the amount and nature of the security required under sections 602, 605 and 609;
- (d) the testing of such security;
- (e) the estimate of the cost of transcribing the record;
- (f) the preparation, examination and certifying of such transcript;
- (g) the revision and authentication of translations;
- (h) the preparation of indices to transcripts of records, and of lists of the papers not included therein;
- (i) the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council,

^a See Chapter XIX, *supra*.

^b 'High Court' here includes the Recorder of Rangoon see section 614, *infra*.

(Part VII. Chapter XLVI.—Of Reference to and Revision by the High Court.
Secs. 613-617.)

and all other matters connected with the enforcement of this chapter.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law in the High Court and the Courts of final appellate jurisdiction subordinate thereto.

Publication
of rules.

613. All rules heretofore made and published by any High Court relating to appeal to Her Majesty in Council and in force immediately before the passing of this Act shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

Legalization
of existing
rules.

614. In sections 595 and 612, the expression "High Court" shall be deemed to include also the Recorder of Rangoon, but not so as to empower him to make rules binding on Courts other than his own Court.

Recorder of
Rangoon.

Ben Reg III
of 1828.

615. The rules and restrictions referred to in Bengal Regulation III of 1828, section IV, clause *fifth*, shall be deemed to be the rules and restrictions applicable to appeals under this Code from the decisions of the High Court of Judicature at Fort William in Bengal.

Construction
of Bengal
Regulation
III of 1828,
section 4,
clause 5.

616. Nothing herein contained shall be understood—

(a) to bar the full and unqualified exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her Majesty in Council, or otherwise howsoever, or

Saving of
Her Majesty's
pleasure,

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to Her Majesty in Council, or their conduct before the said Judicial Committee.

and of rules
for conduct
of business
before Judi-
cial Com-
mittee.

And nothing in this chapter applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, or to appeals from orders and decrees of Prize Courts.

PART VII.

CHAPTER XLVI.^a

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

617. If before or on the hearing of a suit or an appeal in which the decree

Reference of
question to
High Court.

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

As to the application of the chapter to references by the Financial Commissioner of the Panjáb to the Chief Court, see Act XVIII of 1884, section 55.

As to repeal of portion of the chapter in Ajmer and Merwára, see the Ajmer Courts Regu-

(Part II. Chapter XLII.—Of Reference to and Revision by the High Court.
Secs. 618-622.)

is final,^a or if in the execution of any such decree, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Court trying the suit or appeal, or executing the decree, entertains reasonable doubt, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the High Court.

Court may pass decree contingent upon opinion of High Court.

618. The Court may either stay the proceedings or proceed in the case notwithstanding such reference, and may pass a decree or order contingent upon the opinion of the High Court on the point referred ;

but no execution shall be issued, property sold or person imprisoned in any case in which such reference is made until the receipt of a copy of the judgment of the High Court upon such reference.

Judgment of High Court to be transmitted, and case disposed of accordingly.

619. The High Court shall hear the parties to the case in which the reference is made, in person or by their respective pleaders, and shall decide the point so referred, and shall transmit a copy of its judgment,^c under the signature of the Registrar, to the Court by which the reference was made ; and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.

Costs of reference to High Court. Power to alter, &c., decrees of Court making reference.

620. Costs, if any, consequent on a reference for the opinion of the High Court, shall be costs in the case.

621. When a case is referred to the High Court under this chapter, the High Court may return the case for amendment, and may alter, cancel or set aside any decree or order which the Court making the reference has passed in the case out of which the reference arose, and make such order as it thinks fit.

Power to call for record of cases not appealable to High Court.

622.^b The High Court may call for the record of any case in which no appeal lies to the High Court, if the Court by which the case was decided appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of its jurisdiction illegally or with material irregularity ; and may pass such order in the case as the High Court thinks fit.

^a This includes all appeals to Divisional Courts in the Punjab, except where the value of the suit exceeds five hundred rupees—see Act XVIII of 1881, section 41. As to references by Courts of small Causes in the Presidency-towns, see Act XV of 1882, section 69.

^b In the Punjab, this section is to be read subject to the omission of the words “illegally or”, and subject to a restriction as to “cases in which no appeal lies”—see Act XVIII of 1881, section 70.

For court-fees payable on applications to the Chief Court or the Court of the Financial Commissioner of the Punjab under this section, and refund of the same, see Act XVIII of 1881, sections 71 and 72.

For a modified section substituted for the Andaman and Nicobar Islands, see the Andaman and Nicobar Islands Regulation, I of 1881, section 1.

(Part VIII. Chapter XLVII.—Of Review of Judgment. Secs. 623-626.)

PART VIII.

CHAPTER XLVII.^a

OF REVIEW OF JUDGMENT.

623. Any person considering himself aggrieved—

- (a) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred; Application for review of judgment.
- (b) by a decree or order from which no appeal is hereby allowed; or
- (c) by a judgment on a reference from a Court of Small Causes,

and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him,

may apply^b for a review of judgment to the Court which passed the decree or made the order, or to the Court, if any, to which the business of the former Court has been transferred.

A party who is not appealing from a decree may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, except when the ground of such appeal is common to the applicant and the appellant, or when, being a respondent, he can present to the Appellate Court the case on which he applies for the review.

624. Except upon the ground of the discovery of such new and important matter or evidence as aforesaid, or of some clerical error apparent on the face of the decree, no application for a review of judgment, other than that of a High Court, shall be made to any Judge other than the Judge who delivered it. To whom applications for review may be made.

625. The rules hereinbefore contained as to the form of making appeals shall apply, *mutatis mutandis*, to applications for review. Form of applications for review.

626. If it appears to the Court that there is not sufficient ground for a review, it shall reject the application. Application when rejected.

If the Court be of opinion that the application for the review should be Application when granted,

^a This chapter extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

^b For court-fee on such applications, see Act VII of 1870, Schedule I, Articles 4 & 5: for limitation, see Act XV of 1877, Schedule II, Articles 162 & 173.

(Part VIII. Chapter XLVII.—Of Review of Judgment. Secs. 627-629.)

granted, it shall grant the same, and the Judge shall record with his own hand his reasons for such opinion :

Proviso.

Provided that—

- (a) no such application shall be granted without previous notice^a to the opposite party, to enable him to appear and be heard in support of the decree a review of which is applied for ; and
- (b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him, when the decree or order was passed, without strict proof of such allegation.

Application for review in Court consisting of two or more Judges.

627. If the Judge or Judges, or any one of the Judges, who passed the decree or order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented, and is not or are not precluded by absence or other cause, for a period of six months next after the application, from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the Court shall hear the same.

Application when rejected.

628. If the application for a review be heard by more than one Judge and the Court be equally divided, the application shall be rejected.

If there be a majority, the decision shall be according to the opinion of the majority.

Order of rejection final. Objections to admission.

629. An order of the Court for rejecting the application shall be final ; but whenever such application is admitted, the admission may be objected to on the ground that it was—

- (a) in contravention of the provisions of section 624,
- (b) in contravention of the provisions of section 626, or
- (c) after the expiration of the period of limitation prescribed therefor and without sufficient cause.

Such objection may be made at once by an appeal against the order granting the application, or may be taken in any appeal against the final decree or order made in the suit.

Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply^b for an order to have the rejected application restored to the file, and, if it be proved to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such appli-

^a For form of notice, see Schedule IV, No. 178, *infra*.

^b For limitation of such applications, see Act XV of 1877, Schedule II, Article 163 and section 3 of this Act.

(Part IX. Chapter XLVIII.—Special Rules relating to the Chartered High Courts. Secs. 630-635.)

ation was called on for hearing, the Court may order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

No order shall be made under this section unless the applicant has served the opposite party with notice in writing of the latter application.

No application to review an order passed on review or on an application for a review shall be entertained.

630. When an application for a review is granted, a note thereof shall be made in the register, and the Court may at once re-hear the case or make such order in regard to the re-hearing as it thinks fit.

Registry of application granted, and order for re-hearing.

PART IX.

CHAPTER XLVIII.

SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.

631. This chapter applies only to High Courts which are or may hereafter be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104 (*An Act for establishing High Courts of Judicature in India*).

Chapter to apply only to certain High Courts.

632. Except as provided in this chapter the provisions of this Code apply to such High Courts.

Application of Code to High Courts.

633. The High Court shall take evidence, and record judgments and orders, in such manner as it by rule from time to time directs.

High Court to record judgments according to its own rules.

634. Whenever a High Court considers it necessary that a decree made in the exercise of its ordinary original civil jurisdiction should be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs,

Power to order execution of decree before ascertainment of costs, and

and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

execution for costs subsequently. Unauthorized persons not to address Court.

635. Nothing in this Code shall be deemed to authorize any person on behalf of another to address the Court in the exercise of its ordinary original civil jurisdiction, or to examine witnesses, except when the Court shall have in the exercise of the power conferred by its charter authorized him so to do, or to interfere with the power of the High Court to make rules concerning advocates, vakils and attorneys.

(Part X. Chapter XLIX.—Miscellaneous. Secs. 636-640.)

636. Notices to produce documents, summonses to witnesses, and every other judicial process, issued in the exercise of the ordinary or extraordinary original civil jurisdiction of the High Court, and of its matrimonial, testamentary and intestate jurisdictions, except summonses to defendants issued under section 64, writs of execution, and notices under section 553, may be served by the attorneys in the suit, or by persons employed by them, or by such other persons as the High Court by any rule or order from time to time directs.

Who may
serve process
of High
Court.

637. Any non-judicial or quasi-judicial act which this Code requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394, may be done by the Registrar of the Court or by such other officer of the Court as the Court may direct to do such act.

Non-judicial
acts may be
done by
Registrar.

The High Court may, from time to time, by rule declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

638. The following portions of this Code shall not apply to the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, namely, sections 16, 17 and 19, sections 54, clauses (a) and (b), 57, 119, 160, 182 to 185 (both inclusive), 187, 189, 190, 191, 192 (so far as relates to the manner of taking evidence), 198 to 206 (both inclusive), and so much of section 109 as relates to the making of a memorandum;

Sections not
applying to
High Court
in original
civil jurisdic-
tion.

and section 579 shall not apply to the High Court in the exercise of its appellate jurisdiction.

Nothing in this Code shall extend or apply to any Judge of a High Court in the exercise of jurisdiction as an Insolvent Court.

Code not to
affect High
Court in exer-
cise of insol-
vent jurisdic-
tion.

639. The High Court may, from time to time, frame forms for any proceeding in such Court, and may make rules as to the books, entries and accounts to be kept by its officers.

Power to
frame forms.

PART X.

CHAPTER XLIX.^a

MISCELLANEOUS.

640. Women, who according to the customs and manners of the country

Exemption
of certain
women from

^a This chapter, except section 648, extends to Provincial Courts of Small Causes—see section 5 and the second schedule.

ought not to be compelled to appear in public, shall be exempt from personal appearance in Court. personal appearance.

But nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

641. The Local Government may, by notification in the official Gazette, exempt from personal appearance in Court any person whose rank, in the opinion of such Government, entitles him to the privilege of exemption, and may, by like notification, withdraw such privilege. Local Government may exempt certain persons from personal appearance.

The names and residences of the persons so exempted shall, from time to time, be forwarded to the High Court by the Local Government, and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court subordinate to the High Court shall be kept in such subordinate Court. Lists of name of persons exempted to be kept in Courts.

When any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs. Costs of commission rendered necessary by claiming privilege.

642. No Judge, Magistrate or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from, his Court. Persons exempt from arrest under civil process.

And, except as provided in sections 256 and 643, where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, mukhtars, revenue-agents and recognized agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under civil process while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal.

643. When in a case pending before any Court there appears to the Court sufficient ground for sending for investigation to the Magistrate a charge of any such offence as is described in section 193, section 196, section 199, section 200, section 205, section 206, section 207, section 208, section 209, section 210, section 463, section 471, section 474, section 475, section 476 or section 477 of the Indian Penal Code, which may be made in the course of any other suit or proceeding, or with respect to any document offered in evidence in the case, the Court may cause the person accused to be detained till the rising of the Court, and may then send him in custody to the Magistrate or take sufficient bail for his appearance before the Magistrate. Procedure in case of certain offences.

f 1860.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and may bind over any person to appear and give evidence before such Magistrate.

(Part X. Chapter XLIX.—Miscellaneous. Secs. 644-647.)

The Magistrate shall receive such charge and proceed with it according to law.^a

Use of forms
in fourth
schedule.

644. Subject to the power conferred on the High Court by section 639 and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the fourth schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

24 & 25
Vic., chap
104

Language of
subordinate
Courts.

645. The language which, when this Code comes into force, is the language of any Court subordinate to a High Court, shall continue to be the language of such subordinate Court until the Local Government otherwise orders;

but it shall be lawful for the Local Government, from time to time, to declare what language shall be the language of every such Court.^b

Assessors in
causes of
salvage, &c.

645A. In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the Court, whether it be exercising its original or its appellate jurisdiction, may if it thinks fit, and upon request of either party to such cause shall summon to its assistance, in such manner as the Court may by rule, from time to time, direct, two competent assessors; and such assessors shall attend and assist accordingly.

Every such assessor shall receive such fees for his attendance as the Court by rule prescribes. Such fees shall be paid by such of the parties as the Court in each case may direct.

Power of
Registrar
of Small
Cause Court
to state cases.

646. Whenever the Registrar of a Court of Small Causes has any doubt upon any question of law or usage having the force of law, or as to the construction of a document, which construction may affect the merits of the decision, he may state a case for the opinion of the Judge; and all the provisions herein contained relative to the stating of a case by the Judge shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

Miscellaneous
proceedings.

647. The procedure herein prescribed shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction other than suits and appeals.

Admission of
affidavits as
evidence.

The High Court may, from time to time, make rules to provide for the admission, in such proceedings, of affidavits as evidence of the matters to which such affidavits respectively relate; and such rules, on being published in the local official Gazette, shall have the force of law.

^a See Act X of 1882, Chapter XXXV.

^b As to language of proceedings in the Rangoon Court of Small Causes, see Act X of 1881, section 12.

(Part X. Chapter XLIX.—Miscellaneous. Secs. 648-650A.)

648. Where any Court desires that any person shall be arrested or that any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or property is situate outside the local limits of its jurisdiction, the Court may in its discretion issue a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

Procedure when person to be arrested or property to be attached is outside district.

The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment;

and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he furnishes sufficient security for his appearance before that Court, or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by such Court, in either of which cases the Court making the arrest shall release him.

649. The rules contained in Chapter XIX shall apply to the execution of any judicial process for the arrest of a person or the sale of property or payment of money, which may be desired or ordered by a Civil Court in any civil proceeding.

Rules applicable to all civil process for arrest, sale or payment.

In the same chapter, the expression "Court which passed a decree", or words to that effect, shall, unless there is something repugnant in the context, be deemed to include, where the decree to be executed is passed in appeal, the Court which passed the decree against which the appeal was preferred, and, where the Court which passed the decree to be executed has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed were instituted at the time of making application for execution of the decree, would have jurisdiction to try such suit.

650. The provisions of Chapters XIV and XV relating to witnesses shall apply to all persons required to give evidence or to produce documents in any proceeding under this Code.

Application of rules as to witnesses.

650A. Summonses issued by any Civil or Revenue Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts: provided that the Courts issuing such summonses have been established by the authority of the Governor General in Council, or that the Governor General in Council has, by

Service of foreign summonses.

(Part X. Chap. XLIX.—Miscellaneous. Secs. 651-652. The first and second Schedules.)

notification in the *Gazette of India*, declared the provisions of this section to apply to such Courts.

The Governor General in Council may, by like notification, cancel any notification made under this section, but not so as to invalidate the service of any summons served previous to such cancellation.

Penalty for resisting apprehension or escaping from custody under Code or civil process.

651. Whoever offers any resistance or illegal obstruction to the lawful apprehension of himself under this Code, or under the warrant of any Civil or Revenue Court, or escapes or attempts to escape from any custody in which he is lawfully detained under this Code or under such warrant, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Power to make subsidiary rules of procedure.

652.* The High Court may, from time to time, make rules consistent with this Code to regulate any matter connected with its own procedure or the procedure of the Courts of Civil Judicature subject to its superintendence. All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

THE FIRST SCHEDULE.

(See section 3.)

ACTS REPEALED.

| Number and year. | Subject or title. | Extinct or not |
|------------------|-----------------------------------|-------------------------------------|
| X of 1877 | The Code of Civil Procedure . . . | Not repealed. |
| XII of 1879 | Amending Act X of 1877, &c. . . | Sections 1 to 103 (both inclusive). |
| VII of 1880 | Merchant Shipping . . . | Section 85. |

THE SECOND SCHEDULE.

(See section 5.)

Chapters and sections of this Code extending to Provincial Courts of Small Causes.

PRELIMINARY Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.

CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

* This section does not apply to the Jhansi Division - see footnote on page 30, *supra*.

THE SECOND SCHEDULE—*concluded*.

Chapters and Sections of this Code extending to Provincial Courts of Small Causes—concluded.

| | |
|---------|---|
| CHAPTER | IV.—Of the Frame of the Suit, except section 42 and section 44, rule a. |
| CHAPTER | V.—Of the Institution of Suits. |
| CHAPTER | VI.—Of the Issue and Service of Summons, except section 77. |
| CHAPTER | VII.—Of the Appearance of the Parties and Consequence of Non-appearance |
| CHAPTER | VIII.—Section 111, Set-off. |
| CHAPTER | IX.—Of the examination of the Parties by the Court, except section 119. |
| CHAPTER | X.—Of Discovery and the Admission, &c, of Documents. |
| CHAPTER | XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence. |
| CHAPTER | XIII.—Of Adjournments. |
| CHAPTER | XIV.—Of the Summoning and Attendance of Witnesses. |
| CHAPTER | XV.—Of the Hearing of the suit and Examination of Witnesses, except sections 182 to 188 (both inclusive). |
| CHAPTER | XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215. |
| CHAPTER | XVIII.—Sections 220, 221 and 222, of Costs. |
| CHAPTER | XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 280 (both inclusive), 283, 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290, 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive). |
| CHAPTER | XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction. |
| CHAPTER | XXI.—Of the Death, Marriage and Insolvency of Parties. |
| CHAPTER | XXII.—Of the Withdrawal and Adjustment of Suits. |
| CHAPTER | XXIII.—Of payment into Court. |
| CHAPTER | XXIV.—Of requiring Security for Costs. |
| CHAPTER | XXV.—Of Commissions. |
| CHAPTER | XXVI.—Suits by Paupers. |
| CHAPTER | XXVII.—Suits by and against Government or Government Servants. |
| CHAPTER | XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except the first paragraph of section 433. |
| CHAPTER | XXIX.—Suits by and against Corporations and Companies. |
| CHAPTER | XXX.—Suits by and against Trustees, Executors and Administrators. |
| CHAPTER | XXXI.—Suits by and against Minors and Persons of unsound Mind. |
| CHAPTER | XXXII.—Suits by and against Military Men. |
| CHAPTER | XXXIII.—Interpleader. |
| CHAPTER | XXXIV.—Of Arrest and Attachment before Judgment, except as regards immoveable property. |
| CHAPTER | XXXVI.—Appointment of Receivers. |
| CHAPTER | XXXVII.—Reference to Arbitration, sections 506 to 526 (both inclusive). |
| CHAPTER | XXXVIII.—Of Proceedings on Agreement of Parties. |
| CHAPTER | XLVI.—Reference to and Revision by High Court. |
| CHAPTER | XLVII.—Of Review of Judgment. |
| CHAPTER | XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), sections 648 to 652 (both inclusive). |

THE THIRD SCHEDULE.

(See section 7.)

Bombay Enactments.

Bombay Regulation XXIX, 1827.

" " VII, 1830.

" " I, 1831.

Act "XIX of 1835 XVI, 1831.

" XIII of 1842.

THE FOURTH SCHEDULE.

(See section 644.)

FORMS OF PLEADINGS AND DECREES.

A.—PLAINTS: PART I.

No. 1.

FOR MONEY LENT

IN THE COURT OF _____, AT _____,

Civil Suit No. _____.

A. B. of

against

C. D. of _____.

A. B., the above-named plaintiff, states as follows —

1. That on the _____ day of _____ 18____, at _____, he lent the defendant _____ rupees repayable on demand or on the _____ day of _____.
 - 2 That the defendant has not paid the same, except _____ rupees paid on the _____ day of _____.
 - 3 [If the plaintiff claims exemption from the operation of limitation, say —
The plaintiff was a minor (or married) in the _____ day of _____ till the _____ day of _____.
 - 4 The plaintiff pays judgment for _____ rupees with interest at _____ per cent from the _____ day of _____ 18____.
- Now in the _____ of taking account of the _____ rupees and interest. If, therefore, interest is to be made, the _____ rupees and _____ interest are due.

No. 2.

FOR MONEY RECEIVED TO PLAINTIFF'S USE.

(*Rule 1*)

A. B. and *G. H.*, the above-named plaintiffs, state as follows —

1. That on the _____ day of _____ 18____, at _____, the defendant received _____ rupees or a cheque on the _____ Bank for _____.

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints: A.—Part I.)*

rupees] from one *E. F.* for the use of the plaintiffs.

2. That the defendant has not paid [or delivered] the same accordingly.

3. The plaintiffs pray judgment for rupees, with interest at per cent.
from the day of 18 .

No. 3.

FOR PRICE OF GOODS SOLD BY A FACTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , he and *E. F.*, since deceased, delivered to the defendant [*one thousand barrels of flour, five hundred maunds of rice, or as the case may be*] for sale upon commission.

2 That on the day of 18 [or, on some day unknown to the plaintiff, before the day of 18], the defendant sold the said merchandise for rupees.

3 That the commission and expenses of the defendant thereon amount to rupees

4. That on the day of 18 , the plaintiff demanded from the defendant the proceeds of the said merchandise.

5. That he has not paid the same.

[*Demand of judgment.*]

No. 4

FOR MONEY RECEIVED BY DEFENDANT THROUGH THE PLAINTIFF'S MISTAKE OF FACT.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff agreed to buy and the defendant agreed to sell baiss of silver at annas per tola of fine silver.

2. That the plaintiff procured the said baiss, to be assayed by one *E. F.*, who was paid by the defendant for such assay, and that the said *E. F.* declared each of the said baiss to contain 1,500 tolas of fine silver, and that the plaintiff accordingly paid the defendant rupees annas therefor.

3. That each of the said baiss did contain only 1,200 tolas of fine silver.

4. That the defendant has not repaid the sum so overpaid.

[*Demand of judgment.*]

[NOTE.—A demand of repayment is not necessary, but it may affect the question of interest or the costs.]

No. 5.

FOR MONEY PAID TO A THIRD PARTY AT THE DEFENDANT'S REQUEST.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at ,
at the request [or by the authority] of the defendant, the plaintiff paid to one *E. F.* rupees.

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints: A.—Part I.)

2. That, in consideration thereof, the defendant promised [or became bound] to pay the same to the plaintiff on demand [or as the case may be].

3. That [on the day of 18 , the plaintiff demanded payment of the same from the defendant, but] he has not paid the same.

[Demand of judgment.]

[NOTE.—If the request or authority is implied, the plaint should state facts raising the implication.]

No. 6.

FOR GOODS SOLD AT A FIXED PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , E. F., of , deceased, sold and delivered to the defendant one hundred barrels of flour, or, the goods mentioned in the schedule hereto annexed, or, sundry goods].

2. That the defendant promised to pay rupees for the said goods on delivery, or, on the day of some day before the plaint was filed].

3. That he has not paid the same.

4. That the said E. F., in his lifetime, made his will, whereby he appointed the plaintiff executor thereof.

5. That on the day of 18 the said E. F. died.

6. That on the day of probate of the said will was granted to the plaintiff by the Court of

7. The plaintiff as executor as aforesaid [Demand of judgment].

[NOTE.—If a day was fixed for payment, it should be stated as furnishing a time for the commencement of interest.]

No. 7.

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at plaintiff sold and delivered to the defendant [sundry articles or household furniture] but no express agreement was made as to the price.

2. That the same were reasonably worth rupees.

3. That the defendant has not paid the same.

[Demand of judgment.]

[NOTE.—The law implies a reasonable price, if the goods are fairly worth.]

No. 8.

FOR GOODS DELIVERED TO A THIRD PARTY AT DEFENDANT'S REQUEST AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at plaintiff sold to the defendant one hundred barrels of flour, and at the request of the defendant delivered the same to one E. F.

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints: A.—Part I.)*

2. That the defendant promised to pay to the plaintiff rupees therefor.
3. That he has not paid the same.

[*Demand of judgment.*]

No. 9.

FOR NECESSARIES FURNISHED TO THE FAMILY OF DEFENDANT'S TESTATOR, WITHOUT HIS EXPRESS REQUEST, AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at plaintiff furnished to [*Mary Jones*] the wife of [*James Jones*], deceased, at her request, sundry articles of—[*food and clothing*], but no express agreement was made as to the price.
2. That the same were necessary for her.
3. That the same were reasonably worth rupees.
4. That the said *James Jones* refused to pay the same.
5. That the defendant is the executor of the last will of the said *James Jones*.

[*Demand of judgment.*]

No. 10.

FOR GOODS SOLD AT A FIXED PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff sold to *E. F.*, of , deceased, [*all the crops then growing on his farm in*].
2. That the said *E. F.* promised to pay the plaintiff rupees for the same.
3. That he did not pay the same.
4. That the defendant is administrator of the estate of the said *E. F.*

[*Demand of judgment.*]

No. 11.

FOR GOODS SOLD AT A REASONABLE PRICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , *E. F.*, of sold to the defendant [*all the fruit growing in his orchard in*], but no express agreement was made as to the price.
2. That the same was reasonably worth rupees.
3. That the defendant has not paid the same.
4. That on the day of the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic and appointed the plaintiff committee of his estate, with the usual powers for the management thereof.

THE FOURTH SCHEDULE—*continued*.*(Forms of Plaints: A.—Part I.)*

5. The plaintiff as committee as aforesaid [*Demand of judgment*]

[NOTE.—When the defendant's estate is not subject to the ordinary original jurisdiction of a High Court, for paragraphs 1 to 5 substitute the following]—

4. That on the _____ day of _____ the Civil Court of _____ duly adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs, and appointed the plaintiff Manager of his estate.

5. The plaintiff as Manager as aforesaid.

[*Demand of judgment.*]

No. 12.

FOR GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That on the _____ day of _____ 18____, at _____, *E. F.*, of _____, agreed with the plaintiff that the plaintiff should make for him [*sir tables and fifty chairs*], and that the said *E. F.* should pay for the same upon delivery thereof _____ rupees.

2. That the plaintiff made the said goods, and on the _____ day of _____ 18____, offered to deliver the same to the said *E. F.*, and has ever since been ready and willing so to do.

3. That the said *E. F.* has not accepted the said goods or paid for the same.

4. That on the _____ day of _____ 18____, the High Court of Judicature at Fort William duly adjudged the said *E. F.* to be a lunatic, and appointed the defendant committee of his estate.

5. The plaintiff prays judgment for _____ rupees with interest from the _____ day of _____, at the rate of _____ per cent. per annum, to be paid out of the estate of the said *E. F.* in the hands of the defendant.

No. 13

FOR DELINQUENCY UPON A RE-SALE OF GOODS SOLD AT AUCTION.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That on the _____ day of _____ 18____, at _____, plaintiff put up at auction sundry *[articles of property]* to be sold, and that all goods not paid for and removed by the purchaser at the sale, should be re-sold by auction on his account, of which _____ the defendant had notice.

2. That the defendant purchased *[one article of property]* at the said auction at the price of _____ rupees.

3. That the plaintiff was ready and willing to deliver the same to the defendant on the said day and to *[send it]* to the _____, of which the defendant had notice.

4. That the defendant did not take away the said goods purchased by him nor pay therefor, within *[ten days]* after the said notice.

5. That on the _____ day of _____ 18____, at _____, the plaintiff re-sold the said *[article of property]*, on account of the defendant, by public auction for _____ rupees.

6. That the expenses of defendant upon *[his share]* amounted to _____ rupees.

7. That the defendant has not paid the deficiency thereon, amounting to _____ rupees.

[*Demand of judgment.*]

[NOTE to § 4.—Unless the seller agreed to deliver, the plaintiff is entitled to the same by Act IX of 1872, section 93.]

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints: A.—Part I.)

No. 14.

FOR THE PURCHASE-MONEY OF LANDS CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff sold [and conveyed] to the defendant [the house and compound No. , in the city of or, a farm known as , in or, a piece of land lying, &c].
2. That the defendant promised to pay the plaintiff rupees for the said [house and compound, or farm, or land].
3. That he has not paid the same.

[Demand of judgment.]

[NOTE —Where there has been no actual conveyance, say, in § 1, “ sold to the defendant the house, &c , and placed him in possession of the same ”]

No. 15.

FOR THE PURCHASE-MONEY OF IMMOVEABLE PROPERTY CONTRACTED TO BE SOLD, BUT NOT CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff [the house No. , in the town of or one hundred bighás of land in , bounded by the East Indian railroad, and by other lands of the plaintiff] for rupees.
2. That on the day of 18 , at , the plaintiff tendered [or, was ready and willing, and offered to execute] a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.
3. That the defendant has not paid the said sum.

[Demand of judgment.]

No. 16.

FOR SERVICES AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant [hired plaintiff as a clerk, at the salary of rupees per year].
- 2 That from the [said day] until the day of 18 , the plaintiff served the defendant as his [clerk].
- 3 That the defendant has not paid the said salary.

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints: A.—Part I.)

No. 17.

FOR SERVICES AT A REASONABLE PRICE.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That between the day of 18 , and the day of 18 , it , plaintiff [executed sundry drawings, designs and diagrams] for the defendant, at his request; but no express agreement was made as to the sum to be paid for such services.
2. That the said services were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment]

No 18.

FOR SERVICES AND MATERIALS AT A FIXED PRICE.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , it , plaintiff [furnished the paper for and printed one thousand copies of a book called , for the defendant, at his request; and delivered the same to him].
2. That the defendant promised to pay rupees therefor.
3. That he has not paid the same.

[Demand of judgment]

No. 19.

FOR SERVICES AND MATERIALS AT A REASONABLE PRICE.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , it , plaintiff built a house known as No. , in , and furnished the materials therefor, for the defendant, at his request, but no express agreement was made as to the price to be paid for such work and materials.
2. That the said work and materials were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment]

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints: A.—Part I.)

No 20.

FOR RENT RESERVED IN A LEASE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at
the defendant entered into a contract with the plaintiff, under their hands, a copy of which is
hereto annexed.

[Or state the substance of the contract]

2. That the defendant has not paid the rent of the [month] ending on the
day of 18 , amounting to rupees.

[Demand of judgment.]

Another Form.

1. That the plaintiff let to the defendant a house, No. 27, Chowringhee, for seven years
to hold from the day of 18 , at rupees a
year, payable quarterly.

2. That of such rent quarters are due and unpaid.

[Demand of judgment.]

No. 21.

FOR USE AND OCCUPATION AT A FIXED RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1 That on the day of 18 , at
the defendant hired from the plaintiff [the house No. , street],
at the rent of rupees, payable on the first day of

2. That the defendant occupied the said premises from the day of
18 to the day of 18 .

3 That the defendant has not paid rupees, being the part of said rent,
due on the first day of 18 .

[Demand of judgment.]

No. 22.

FOR USE AND OCCUPATION AT A REASONABLE RENT.

(Title.)

A. B., the above-named plaintiff, executor of the will of X. Y., deceased, states as follows:—

1. That the defendant occupied the [house No. , street], by
permission of the said X. Y., from the day of 18 ,
until the day of 18 , and no agreement was made
as to payment for the use of the said premises.

2. That the use of the said premises for the said period was reasonably worth rupees.

3. That the defendant has not paid the same.

4. The plaintiff as such executor as aforesaid prays judgment for rupees.

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints : A.—Part I.)*

No. 23.

FOR BOARD AND LODGING.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That from the day of 18 , until the day of 18 , the defendant occupied certain rooms in the house [No. street], by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance and other necessities.

2. That, in consideration thereof, the defendant promised to pay [*or*, that no agreement was made as to payment for such meat, drink, attendance or necessities, but the same were reasonably worth] the sum of rupees.

3. That the defendant has not paid the same.

[Demand of judgment.]

No. 24.

FOR FREIGHT OF GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , plaintiff transported in [his barge, *or otherwise*] "one thousand barrels of flour, *or* sundry goods"], from to , at the request of the defendant.

2. That the defendant promised to pay the plaintiff the sum of "one rupee per barrel" as freight thereon [*or*, that no agreement was made as to payment for such transportation, but such transportation was reasonably worth rupees].

3. That the defendant has not paid the same.

[Demand of judgment.]

No. 25.

FOR PASSAGE-MONEY.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , plaintiff conveyed the defendant [in his ship, called the], from to at his request.

2. That the defendant promised to pay the plaintiff rupees therefor. [*Or*, that no agreement was made as to the price of the said passage, but the said passage was reasonably worth rupees.]

3. That the defendant has not paid the same.

[Demand of judgment.]

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints: A.—Part I.)

No. 26.

ON AN AWARD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at
the plaintiff and defendant, having a controversy between them concerning [a demand of the plaintiff for the price of ten barrels of oil, which the defendant refused to pay], agreed to submit the same to the award of *E. F.* and *G. H.*, as arbitrators [*or*, entered into an agreement, a copy of which is hereto annexed].

2. That on the day of 18 , at ,
the said arbitrators awarded that the defendant should [pay the plaintiff rupees].

3. That the defendant has not paid the same.

[Demand of judgment.]

[NOTE.—This will apply where the agreement to refer is not filed in Court.]

No. 27.

OF A FOREIGN JUDGMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at ,
in the State [*or* Kingdom] of , the Court of
that State [*or* Kingdom], in a suit therein pending between the plaintiff and the defendant,
duly adjudged that the defendant should pay to the plaintiff rupees, with
interest from the said date.

2. That the defendant has not paid the same.

[Demand of judgment.]

PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY

No. 28.

ON AN ANNUITY BOND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at ,
the defendant by his bond became bound to the plaintiff in the sum of rupees to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff rupees half-yearly on the day of and the day of in every year during the life of the plaintiff, the said bond should be void.

2. That afterwards, on the day of 18 , the sum of rupees for of the said half-yearly payments of the said annuity, became due to the plaintiff and is still unpaid.

[Demand of judgment.]

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints: A.—Part I.)

No. 29.

PAYEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at
the defendant, by his promissory note, now overdue, promised to pay to the plaintiff
rupees [days] after date.

2. That he has not paid the same [except rupees, paid on the day of
18].

[Demand of judgment.]

[NOTE.—Where the note is payable after notice, for paragraphs 1 and 2 substitute]—

1. That on the day of 18 , at , the defendant by his
promissory note promised to pay to the plaintiff rupees months
after notice.

2. That notice was afterwards given by the plaintiff to the defendant to pay the same
months after the said notice.

3. That the said time for payment has elapsed, but the defendant has not paid the same

[Where the note is payable at a particular place, say]—

1. That on the day of 18 , at , the defendant, by his
promissory note, now overdue, promised to pay to the plaintiff [at Messrs. *A. & Co.'s*,
Madras] rupees months after date.

2. That the said note was duly presented for payment [at Messrs. *A. & Co.'s*] aforesaid,
but has not been paid.

Written Statement of the Defendant.

IN THE COURT, &c.,

C. D., the above-named defendant, states as follows:—

1. The defendant made the note sued upon under the following circumstances: The plaintiff and defendant had for some years been in partnership as indigo-manufacturers, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, and that the defendant should take over the whole of the partnership-assets and liabilities and should pay the plaintiff the value of his share in the assets after deducting the liabilities.

2. The plaintiff thereupon undertook to examine the partnership-books and inquire into the state of the partnership-assets and liabilities; and he did accordingly examine the said books and make the said inquiries, and he thereupon represented to the defendant that the assets of the firm exceeded Rs. 1,00,000 and that the liabilities of the firm were less than Rs. 30,000, whereas the fact was that the assets of the firm were less than Rs. 50,000 and the liabilities of the firm largely exceeded the assets.

3. The misrepresentations mentioned in the second paragraph of this statement induced the defendant to make the note now sued on, and there never was any other consideration for the making of such note.

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints : A.—Part I.)*

No. 30.

FIRST INDORSEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at
the defendant, by his promissory note, now overdue, promised to pay to the order of *E. F.*,
[or to *E. F.* or order] rupees [days after date].
2. That the said *E. F.* indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 31.

SUBSEQUENT INDORSEE AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. [*As in the last preceding form.*]
2. That the same was, by the indorsement of the said *E. F.* and of *G. H.* and *I. J.* [or
and others] transferred to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 32.

FIRST INDORSEE AGAINST FIRST INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That *E. F.*, on the day of 18 , at
by his promissory note, now overdue, promised to pay to the defendant or order rupees
 months after date.
2. That the defendant indorsed the same to the plaintiff.
3. That on the day of 18 , the same was duly presented
for payment, but was not paid.

[*Or state facts excusing want of presentment.*]

4. That the defendant had notice thereof.
5. That he has not paid the same.

[*Demand of judgment.*]

No. 33.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER ; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to one *E. F.* a promissory note, now overdue, made [or
purporting to have been made] by one *G. H.* on the day of 18 ,

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints: A.—Part I.)*

at _____, to the order of the defendant, for the sum of _____ rupees [payable _____ days after date].

2. That the same was, by the indorsement of the said *E. F.* [and others], transferred to the plaintiff. [Or, that the said *E. F.* indorsed the same to the plaintiff.]

3, 4 and 5. [Same as 3, 4 and 5 of the last preceding form.]

[Demand of judgment.]

No. 34.

SUBSEQUENT INDORSEER AGAINST HIS IMMEDIATE INDORSEER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to him a promissory note, now overdue, made [or purporting to have been made] by one *E. F.*, on the _____ day of _____ 18____, at _____, to the order of one *G. H.*, for the sum of _____ rupees [payable _____ days after date], and indorsed by the said *G. H.* to the defendant.

2, 3 and 4. [Same as in 3, 4 and 5 in Form No. 33.]

[Demand of judgment.]

No. 35.

SUBSEQUENT INDORSEER AGAINST INTERMEDIATE INDORSEER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That a promissory note, now overdue, made [or purporting to have been made] by one *E. F.*, on the _____ day of _____ 18____, at _____, to the order of one *G. H.*, for the sum of _____ rupees [payable _____ days after date], and indorsed by the said *G. H.* to the defendant, was by the indorsement of _____ [and others] transferred to the plaintiff.

2, 3 and 4. [As in No. 33.]

[Demand of judgment.]

No. 36.

SUBSEQUENT INDORSEER AGAINST MAKER, AND FIRST AND SECOND INDORSEER.

IN THE COURT OF _____

AT _____

Civil Suit No. _____

A. B. of _____

against _____

C. D. of _____

E. F. of _____

and _____

G. H. of _____

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, at _____, the defendant, *C. D.*, by his promissory note, now overdue, promised to pay to the order of the plaintiff, *E. F.*, _____ rupees [_____ months after date].

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints : A.—Part I.)*

2. That the said *E. F.* indorsed the same to the defendant, *G. H.*, who indorsed it to the plaintiff.

3. That on the day of 18 , the same was presented [*or state facts excusing want of presentment*] to the said *C. D.* for payment, but was not paid.

4. That the said *E. F.* and *G. H.* had notice thereof.

5. That they have not paid the same.

[*Demand of judgment.*]

No. 37.

DRAWER AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him rupees [days after date, *or* sight, thereof].

2. That the defendant accepted the said bill. [*If the bill is payable at a certain time after sight, the date of acceptance should be stated ; otherwise it is not necessary.*]

3. That he has not paid the same.

4. That by reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof.

[*Demand of judgment.*]

[*NOTE.*—Where the bill is payable to a third party, for paragraphs 1, 2, 3, say]—

1. That on, &c., at, &c., by his bill of exchange, now overdue, directed to the defendant, the plaintiff required the defendant to pay to *E. F.* or order rupees months after date.

2. That the plaintiff delivered the said bill to the said *E. F.* on

3. That the defendant accepted the said bill, but did not pay the same, whereupon the same was returned to the plaintiff.

No. 38.

PAYEE AGAINST ACCEPTOR.

(*Title*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or purporting to have been made*] by one *E. F.*, on the day of 18 , at , requiring the defendant to pay to the plaintiff rupees after sight thereof.

2. That he has not paid the same.

[*Demand of judgment.*]

No. 39.

FIRST INDORSEE AGAINST ACCEPTOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or purporting to have been made*] by one *E. F.*, on the

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints: A.—Part I.)*

- day of 18, at , requiring the defendant to pay
to the order of one *G. H.* rupees after sight thereof.
2. That the said *G. H.* indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 40.

SUBSEQUENT INDORSEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [*As in the last preceding form, to the end of Article I.*]
2. That by the indorsement of the said *G. H.* [and others], the same was transferred to the plaintiff.
3. That the defendant has not paid the same.

[*Demand of judgment.*]

No. 41.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at the defendant, by his bill of exchange, directed to *E. F.*, required the said *E. F.* to pay to the plaintiff rupees [days after sight].
2. That on the day of 18, the same was duly presented to the said *E. F.* for acceptance and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 42.

FIRST INDORSEE AGAINST FIRST INDORSEE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to the plaintiff a bill of exchange, now overdue, made [or purporting to have been made] by one *E. F.*, on the day of 18, at , requiring one *G. H.* to pay to the order of the defendant rupees [days after sight, or at sight] thereof, [and accepted by the said *G. H.* on the day of 18].
2. That on the day of 18, the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints: A.—Part I.)

No. 43.

SUBSEQUENT INDORSEE AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to one *E. F.* a bill of exchange, now overdue, made [or purporting to have been made] by one *G. H.*, on the day of 18 , at , requiring one *I. J.* to pay to the order of the defendant rupees days after sight thereof [or otherwise], and accepted by the said *I. J.* on the day of 18 . [This clause may be omitted if not according to the fact.]

2. That the same was, by the indorsement of the said *E. F.*, [and others], transferred to the plaintiff.

3. That on the day of 18 , the same was presented to the said *I. J.* for payment, and was dishonoured.

4. That the defendant had due notice thereof.

5. That he has not paid the same.

[Demand of judgment.]

No. 44.

SUBSEQUENT INDORSEE AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the defendant indorsed to plaintiff a bill of exchange, now overdue, made [or purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.* to pay to the order of *I. J.* rupees days after sight thereof [or otherwise], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant.

2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.

3. That the defendant had due notice thereof.

4. That he has not paid the same.

[Demand of judgment.]

No. 45.

SUBSEQUENT INDORSEE AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That a bill of exchange, now overdue, made [or purporting to have been made] by one *E. F.*, on the day of 18 , at , requiring one *G. H.* to pay to the order of one *I. J.* rupees days after sight thereof [or otherwise], [accepted by the said *G. H.*] and indorsed by the said *I. J.* to the defendant, was, by the indorsement of the defendant [and others], transferred to the plaintiff.

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints: A.—Part I)*

2. That on the day of 18 , the same was presented to the said *G. H.* for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[*Demand of judgment.*]

No. 46.

INDORSEE AGAINST DRAWER, ACCEPTOR AND INDORSER.

IN THE COURT OF

, AT

Civil Suit No.

A. B. of

against

C. D. of

E. F. of

and

G. H. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, *C. D.*, by his bill of exchange, now overdue, directed to the defendant *E. F.*, required the said *E. F.* to pay to the order of the defendant *G. H.* rupees [days after sight thereof].
2. That on the day of 18 , the said *E. F.* accepted the same.
3. That the said *G. H.* indorsed the same to the plaintiff.
4. That on the day of 18 , the same was presented to the said *E. F.* for payment, and was dishonoured.
5. That the other defendants had due notice thereof.
6. That they have not paid the same.

[*Demand of payment*]

No. 47.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE OF A FOREIGN BILL.

(*Title*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bill of exchange, drawn in Calcutta, required one *E. F.* to pay to the plaintiff in [London] pounds sterling, [sixty days] after sight thereof.
 2. That on the day of 18 , the same was presented to the said *E. F.* for acceptance, and was dishonoured, and was thereupon duly protested.
 3. That the defendant had due notice thereof.
 4. That he has not paid the same.
 5. That the value of pounds sterling, at the time of the service of notice of protest on the defendant, was rupees annas.]
- Wherefore the plaintiff demands judgment against the defendant for rupees, with [ten per centum] compensation and interest from the day of 18 .

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints: A.—Part I.)

No. 48.

PAYER AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the _____ day of _____ 18____, at _____, one *E. F.*, by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff _____ rupees after date [or _____ days after sight] thereof.

2. That on the _____ day of _____ 18____, the defendant accepted the said bill.

3. That he has not paid the same.

[Demand of judgment.]

No. 49.

ON A MARINE [OPEN] POLICY, ON VESSEL LOST BY PERILS OF THE SEA, &C.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff was the owner of [or had an interest in] the ship _____ at the time of her loss, as hereinafter mentioned.

2. That on the _____ day of _____ 18____, at _____, the defendants, in consideration of _____ rupees to them paid [or which the plaintiff then promised to pay] executed to him a policy of insurance upon the said ship, a copy of which is hereto annexed; [or, whereby they promised to pay to the plaintiff, within _____ days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during her next voyage from _____ to _____, whether by perils of the sea or by fire, or by other causes therein mentioned, not exceeding _____ rupees].

3. That the said ship, while proceeding on the voyage mentioned in the said policy, was on the _____ day of _____ 18____, totally lost by the perils of the sea [or otherwise].

4. That the plaintiff's loss thereby was _____ rupees.

5. That on the _____ day of _____ 18____, he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendants have not paid the said loss.

[Demand of judgment.]

No. 50.

ON CARGO, LOST BY FIRE:—VALUED POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [or had an interest in] [one hundred bales of cotton] on board the ship _____ at the time of her loss as hereinafter mentioned.

THE FOURTH SCHEDULE—*continued*;*(Forms of Plaints: A.—Part I.)*

2. That on the day of 18 , at the defendants, in consideration of rupees which the plaintiff then paid [*or* promised to pay], executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed; [*or*, whereby they promised to pay to the plaintiff rupees in case of the total loss, by fire or other causes mentioned, of the said goods before their landing at ; *or*, in case of partial loss, such damage as the plaintiff might sustain thereby, provided the same should not exceed per centum of the whole value of the goods].

3. That on the day of 18 , at , while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire (*or*, as the case may be).

4, 5 and 6. [*As in paragraphs 4, 5 and 6 of the last preceding form.*]

[*Demand of judgment.*]

No. 51.

ON FREIGHT:—VALUED POLICY.

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff had an interest in the freight to be earned by the ship on her voyage from to at the time of her loss as hereinafter mentioned and that a large quantity of goods was shipped upon freight in her at that time.

2. That on the day of 18 , at , the defendant, in consideration of rupees to him paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereto annexed [*or state its tenor, as before*].

3. That the said ship, while proceeding upon the voyage mentioned in the said policy was, on the day of 18 , totally lost by [the perils of the sea].

4. That the plaintiff has not received any freight from the said ship, nor did she earn any on the said voyage, by reason of her loss as aforesaid.

5 and 6. [*As in Form No. 19.*]

[*Demand of judgment.*]

No. 52.

FOR A LOSS BY GENERAL AVERAGE

(Title)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [*or* had an interest in] one hundred bales of cotton shipped on board a vessel called the "*Z.*" from to , at the time of the loss hereafter mentioned.

2. That on the day of 18 , at , in consideration of rupees [which the plaintiff then promised to pay], the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed [*or state its tenor, as before*].

3. That on the day of 18 , while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints : A.—Part I.)*

4. That the plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of rupees.

5. That on the day of 18 , he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendant has not paid the said loss.

[Demand of judgment.]

No. 53.

FOR A PARTICULAR AVERAGE LOSS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1 and 2. *[As in the last preceding form.]*

3. That on the day of 18 , while on the high seas, the sea-water broke into the said ship, and damaged the said [cotton] to the amount of rupees.

4 and 5. *[As in paragraphs 5 and 6 of the last preceding form.]*

[Demand of judgment.]

No. 54.

ON A FIRE-INSURANCE POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff [was the owner of, *or*] had an interest in a [dwelling-house, known as No. , street, in the city of ,] at the time of its destruction [or, injury] by fire as hereinafter mentioned.

2. That on the day of 18 , at , in consideration of rupees [to them paid], the defendants executed to the plaintiff a policy of insurance on the said [premises], a copy of which is hereto annexed [*or state its tenor*].

3. That on the day of 18 , the said [dwelling-house] was totally destroyed [*or, greatly damaged*] by fire.

4. That the plaintiff's loss thereby was rupees.

5. That on the day of 18 , he furnished the defendants with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6. That the defendants have not paid the said loss.

[Demand of judgment.]

No. 55.

AGAINST SURETY FOR PAYMENT OF RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one *E. F.* hired from the plaintiff, for the term of years, the [house No. , street ,] at the annual rent of rupees, payable [monthly].

THE FOURTH SCHEDULE—*continued.*

(Forms of *Plaints* : *B.*—*Plaints for Compensation for Breach of Contract.*)

2. That [at the same time and place] the defendant agreed, in consideration of the letting of the said premises to the said *E. F.*, to guarantee the punctual payment of the said rent.

3. That the rent aforesaid for the month of 18 , amounting to rupees, has not been paid.

[*If, by the terms of the agreement, notice is required to be given to the surety, add*]:—

4. That on the day of 18 , the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.

5. That he has not paid the same.

[*Demand of judgment.*]

B.—PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

FOR BREACH OF AGREEMENT TO CONVEY LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

[*Or, That on, &c.*, the defendant agreed with the plaintiff that, in consideration of a deposit of rupees then paid, and of the further sum of [ten thousand] rupees payable as hereinafter mentioned, he would, on the day of 18 , at execute to the plaintiff a sufficient conveyance of [the house No. , street, in the city of , free from all incumbrances, and the plaintiff agreed to pay [ten thousand] rupees for the same on delivery thereof.]

2. That on the day of 18 , the plaintiff demanded the conveyance of the said property from the defendant and tendered rupees to the defendant [*or, that all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part.*]

3. That the defendant has not executed any conveyance of the said property to the plaintiff [*or, that there is a mortgage upon the said property, made by to , for rupees, registered in the office of , on the day of 18 , and still unsatisfied, or any other defect of title.*]

4. That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.

5. The plaintiff prays judgment for rupees compensation

No. 57.

FOR BREACH OF AGREEMENT TO PURCHASE LAND.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed.

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints: B.—Plaints for Compensation for Breach of Contract.)*

[Or, That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant and that the defendant should purchase from the plaintiff forty bighás of land in the village of for rupees.]

2. That on the day of 18 , at , the plaintiff, being then the absolute owner of the said property [and the same being free from all incumbrances, as was made to appear to the defendant], tendered to the defendant a sufficient instrument of conveyance of the same [or, was ready and willing, and offered, to convey the same to the defendant by a sufficient instrument], on the payment by the defendant of the said sums.

3. That the defendant has not paid the same.

[Demand of judgment.]

No. 58.

Another Form.

FOR NOT COMPLETING A PURCHASE OF IMMOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That by an agreement dated the day of 18 , it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of rupees, upon the terms and conditions following (that is to say)—

(a) That the defendant should pay the plaintiff a deposit of rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the day of 18 , on which day the said purchase should be completed.

(b) That the plaintiff should deduce and make a good title to the said premises on or before the day of 18 , and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2. That all conditions were fulfilled, and all things happened and all-times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.

3. That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[Demand of judgment.]

No. 59.

FOR NOT DELIVERING GOODS SOLD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff [on the day of 18], and that the plaintiff should pay therefor rupees on delivery.

THE FOURTH SCHEDULE—*continued.*

(*Forms of Plaints : B.—Plaints for Compensation for Breach of Contract.*)

2. That on the [said] day the plaintiff was ready and willing, and offered to pay the defendant the said sum upon delivery of the said goods.

3. That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[*Demand of judgment.*]

No. 60.

FOR BREACH OF CONTRACT TO EMPLOY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, or in the capacity of foreman, or as the case may be], and that the defendant should employ the plaintiff as such, for the term of [one year], and pay him for his services rupees [monthly].

2. That on the day of 18 , the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.

3. That on the day of 18 , the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

[*Demand of judgment.*]

No. 61.

FOR BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. [*As in last preceding Form.*]

2. That on the day of 18 , at , the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing to do so.

3. That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[*Demand of judgment.*]

No. 62.

FOR BREACH OF CONTRACT TO SERVE.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at [an annual] compensation of rupees, and that the defendant should serve the plaintiff as [an artist] for the term of [one year].

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints : B.—Plaints for Compensation for Breach of Contract.)*

2. That the plaintiff has always been ready and willing to perform his part of the said agreement [and on the day of 18 , offered so to do].

3. That the defendant [entered upon] the service of the plaintiff on the above-mentioned day, but afterwards, on the day of 18 , he refused to serve the plaintiff as aforesaid.

[*Demand of judgment.*]

No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at
the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed.

[*Or state the tenor of the contract.*]

[2. That the, plaintiff, duly performed all the conditions of the said agreement on his part.]

3. That the defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[*Demand of judgment.*]

No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the
defendant entered into an agreement, under his hand and seal,* a copy of which is hereto annexed.

[*Or state the tenor of the contract.*]

2. That after the making of the said agreement the plaintiff received the said [*apprentice*] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. That on the day of 18 , the said [*apprentice*] wilfully absented himself from the service of the plaintiff, and continues so to do.

[*Demand of judgment.*]

* The form given in Act XIX of 1850 requires the seal of the father or guardian.

No. 65.

BY THE APPRENTICE AGAINST THE MASTER.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into an agreement with the plaintiff and his [*father*], *E. F.*, under their hands and seals, a copy of which is hereto annexed.

THE FOURTH SCHEDULE—*continued*.

(Forms of Plaints : B.—Plaints for Compensation for Breach of Contract.)

2. That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3. That the defendant has not [instructed the plaintiff in the business of _____, or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment].

[Demand of judgment.]

No. 66.

ON A BOND FOR THE FIDELITY OF A CLERK.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, at _____, plaintiff employed one E. F. as a clerk.

2. That on the _____ day of _____ 18____, at _____, the defendant agreed with the plaintiff that if the said E. F. should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding _____ rupees.

[Or, 2. That at the same time and place, the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of _____ rupees, conditioned that if the said E. F. should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void, but not otherwise.]

[Or, 2. That at the same time and place, the defendant executed to the plaintiff a bond, a copy of which is hereto annexed.]

3. That between the _____ day of _____ 18____, and the _____ day of _____ 18____, the said E. F. received money and other property, amounting to the value of _____ rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[Demand of judgment.]

No. 67.

BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, at _____, the defendant, by an instrument in writing, let to the plaintiff the house No. _____, _____ street] for the term of _____ years, contracting with the plaintiff that he, the plaintiff, and his legal representatives, should quietly enjoy a possession thereof for the said term.

2. That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. That on the _____ day of _____ during the said term, one E. F., who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints : B.—Plaints for Compensation for Breach of Contract.)*

4. That the plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend _____ rupees in moving, and lost the custom of *G. H.* and *I. J.* by such removal].

[*Demand of judgment.*]

No. 68.

FOR BREACH OF WARRANTY OF MOVEABLES.

(*Title*)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, at _____, the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him _____ rupees therefor.
2. That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which could otherwise have accrued to him while the engine was under repair.

[*Demand of judgment.*]

No. 69.

ON AN AGREEMENT OF INDEMNITY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, at _____, the plaintiff and defendant being partners in trade under the firm of *A. B. & C. D.*, dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership-property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.
2. That the plaintiff duly performed all the conditions of the said agreement on his part.
3. That on the _____ day of _____ 18____ [a judgment was recovered against the plaintiff and defendant by one *E. F.*, in the High Court of Judicature at _____, upon a debt due from the said firm to the said *E. F.*, and on the _____ day of _____ 18____,] the plaintiff paid _____ rupees [in satisfaction of the same].
4. That the defendant has not paid the same to the plaintiff.

[*Demand of judgment.*]

No. 70.

BY SHIPOWNER AGAINST FREIGHT OR FOR NOT LOADING.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That on the _____ day of _____ 18____, at _____, the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed. [*Or, 1. That on _____, at _____, the plaintiff and defendant agreed by charter-party that the defendant should deliver to the plaintiff's ship*

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints: C.—Plaints for Compensation upon Wrongs.)

at _____ on the _____ day of _____ 18____, five hundred tons of merchandise, which she should carry to _____, and there deliver, on payment of _____ freight; and that the defendant should have _____ days for loading, _____ days for discharge, and _____ days for demurrage, if required, at _____ rupees per day.]

2. That at the time fixed by the said agreement the plaintiff was ready and willing, and offered to receive [the said merchandise, *or* the merchandise mentioned in the said agreement] from the defendant.

3. That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore, the plaintiff demands judgment for _____ rupees for demurrage and _____ rupees additional for compensation.

C.—PLAINTS FOR COMPENSATION UPON WRONGS.

No. 71.

FOR TRESPASS ON LAND

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the _____ day of _____ 18____, at _____, the defendant entered upon certain land of the plaintiff, known as _____ [and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].

[Demand of judgment.]

No. 72.

FOR TRESPASS IN ENTERING A DWELLING-HOUSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant entered a dwelling-house of the plaintiff called _____, and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.

2. That the plaintiff was thereby prevented from carrying on his business, and incurred expenses in procuring another dwelling-house for himself and family.

[Demand of judgment.]

No. 73.

FOR TRESPASS ON MOVABLES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the _____ day of _____ 18____, at _____, the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied their contents into

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints: C.—Plaints for Compensation upon Wrongs.)*

the street [*or*, seized and took the plaintiff's goods, that is to say, iron, rice and household furniture, *or as the case may be*, and carried away the same and disposed of them to his own use]:

or, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.

2. That the plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expense in feeding them and in getting them restored to him; and was also prevented from selling them at fair, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff [*otherwise, state the injury according to the facts*].

[*Demand of judgment.*]

No. 74.

FOR THE CONVERSION OF MOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff was in possession of certain goods described in the schedule hereto annexed [*or*, of one thousand barrels of flour].

2. That on that day, at , the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

[*Demand of judgment.*]

The Schedule.

No. 75.

AGAINST A WAREHOUSEMAN FOR REFUSAL TO DELIVER GOODS.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, in consideration of the payment to him of rupees [*or* rupees per barrel, per month, &c.], agreed to keep in his godown [one hundred barrels of flour], and to deliver the same to the plaintiff on payment of the said sum.

2. That thereupon the plaintiff deposited with the defendant the said [hundred barrels of flour].

3. That on the day of 18 , the plaintiff requested the defendant to deliver the said goods, and tendered him rupees [*or* the full amount of storage due thereon], but the defendant refused to deliver the same.

4. That the plaintiff was thereby prevented from selling the said goods to *E. F.*, and the same are lost to the plaintiff.

[*Demand of judgment.*]

No. 76.

FOR PROCURING PROPERTY BY FRAUD.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he, the defendant, was solvent, and worth rupees over all his liabilities].

THE FOURTH SCHEDULE—continued.

(Forms of Plaints : C.—Plaints for Compensation upon Wrongs.)

2. That the plaintiff was thereby induced to sell [and deliver] to the defendant [dry goods] of the value of rupees.

3. That the said representations were false [*or, state the particular falsehoods*], and were then known by the defendant to be so.

4. That the defendant has not paid for the said goods. [*Or, if the goods were not delivered, That the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended rupees.*]

[Demand of judgment.]

No. 77.

FOR FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant represented to the plaintiff that one *E. F.* was solvent and in good credit, and worth rupees over all his liabilities [*or, that E. F. then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit*].

2. That the plaintiff was thereby induced to sell to the said *E. F.* [rice] of the value of rupees [on month's credit].

3. That the said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [*or, to deceive and injure the plaintiff*].

4. That the said *E. F.* [did not pay for the said goods at the expiration of the credit aforesaid, *or*] has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises.

[Demand of judgment.]

No. 78.

FOR POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That he is, and at all the times hereinafter mentioned was, possessed of certain land called and situate in , and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which did well and ran into the said well to supply the same to flow or run without being fouled or polluted.

2. That on the day of 18 the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.

3. That by reason of the premises the said water in the said well became impure and unfit for drinking and other necessary purposes, in that the plaintiff and his family are deprived of the use and benefit of the said well and of the said water.

[Demand of judgment.]

No. 79.

FOR CALIBING ON A NOXIOUS MANUFACTURE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called situate in ,

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints: C.—Plaints for Compensation upon Wrongs.)

2. That ever since the day of 18 the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.

3. That thereby the trees, hedges, herbage and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and live-stock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.

4. That by reason of the premises, the plaintiff was unable to depasture the said lands with cattle and sheep as he otherwise might have done, and was obliged to remove his cattle, sheep and farming stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

[Demand of judgment.]

No. 80.

FOR OBSTRUCTING A WAY.

(*Title.*)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of [a house in the village of]•

2 That he was entitled to a right of way from the said [house] over a certain field to a public highway and back again from the said highway over the said field to the said house, for himself and his servants [with vehicles, *or*, on foot] at all times of the year.

3. That on the _____ day of _____, 18____, defendant wrongfully obstructed the said way, so that the plaintiff could not pass [with vehicles, *or*, on foot, *or*, in any manner] along the said way [and has ever since wrongfully obstructed the same].

4. [State special damage, if any.]

[*Demand of judgment.*]

Another Form.

1. That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from _____ to _____ so as to obstruct it.

2. That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [or, into the said trench] and broke his arm, and suffered great pain and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[*Demand of judgment.*]

No. 81.

FOR DIVERTING A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a [stream] known as the _____, in the village of _____, district _____ of _____

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints : C.—Plaints for Compensation upon Wrongs.)

No. 85.

FOR ASSAULT AND BATTERY, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted and beat him until he became insensible.

2. That the plaintiff was thereby disabled from attending to his business for [six weeks thereafter], and was compelled to pay rupees for medical attendance, and has been ever since disabled [from using his right arm]. [*Or otherwise state the damage, as the case may be.*]

[Demand of judgment.]

No. 86.

FOR ASSAULT AND FALSE IMPRISONMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted the plaintiff and imprisoned him for days [*or hours*];
state special damage, if any, thus:—

2. That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment [*or otherwise, as the case may be.*]

[Demand of judgment.]

No. 87.

FOR INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendants were common carriers of passengers by railway between and .

2. That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.

3. That while he was such passenger, at [*or, near the station of*]
; *or*, between the stations of and , a collision occurred on the said railway, caused by the negligence and unskilfulness of the defendants' servants, whereby the plaintiff was much injured [having his leg broken, his head cut, &c., and state the special damage, if any, as], and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as [a salesman].

[Demand of judgment.]

[*Or thus:*— 2. That on that day the defendants by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, &c., as in § 3.]

THE FOURTH SCHEDULE—continued.

(Forms of Pleas: C.—Pleas for Compensation upon Wrongs.)

No. 88.

FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff is a shoemaker, carrying on business at
The defendant is a merchant of
2. On the [23rd May, 1875] the plaintiff was walking eastward along Chowringhee, in the City of Calcutta, at about 3 o'clock in the afternoon. He was obliged to cross Harrington Street, which is a street running into Chowringhee at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's, drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning, turned at a rapid and dangerous pace out of Harrington Street into Chowringhee. The pole of the carriage struck the plaintiff and knocked him down, and he was much trampled by the horses.
3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims rupees damages

(Title.)

Written Statement of Defendant

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, or that it was under the charge or control of the defendant's servants. The carriage belonged to [Messrs. *E. F.* and *G. H.*] of Street, Calcutta, livery stable-keepers, employed by the defendant to supply him with carriages and horses; and the person under whose charge and control the said carriage was, was the servant of the said [Messrs. *E. F.* and *G. H.*].
2. The defendant does not admit that the said carriage was turned out of Harrington Street either negligently, suddenly, or without warning or at a rapid or dangerous pace.
3. The defendant says that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.
1. The defendant does not admit the statements of the third paragraph of the plaint.

No. 89.

FOR LIBEL, THE WORDS BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant published in a newspaper, called the [or, in a letter addressed to *E. F.*], the following words concerning the plaintiff:—
[Set forth the words used.]
2. That the said publication was false and malicious.

[Demand of judgment.]

NOTE.—If the libel was in a language not the language of the Court, set out the libel *verbatim* in the foreign language in which it was published, and then proceed thus—Which said words, being translated into the language, have the meaning and effect following and were so understood by the persons to whom they were so published, that is to say here set out a literal translation of the libel in the language of the Court.]

THE FOURTH SCHEDULE—*continued.*

(Forms of Plaints : C.—Plaints for Compensation upon Wrongs.)

No. 90.

FOR LIBEL; THE WORDS NOT BEING LIBELLOUS IN THEMSELVES.

[Title.]

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff [is, and] was, on and before the day of 18 a merchant doing business in the city of
2. That on the day of 18 , at , the defendant published in a newspaper, called the [or, in a letter addressed to *E. F.*, or otherwise how published], the following words concerning the plaintiff:—
“[*A. B.* of this city has modestly retired to foreign lands. It is said that creditors to the amount of rupees are anxiously seeking his address.”]
3. That the defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].
4. That the said publication was false and malicious.

[Demand of judgment.]

No. 91.

FOR SLANDER; THE WORDS BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously spoke, in the hearing of *E. F.* [or, sundry persons], the following words concerning the plaintiff: [“He is a thief”].
2. That, in consequence of the said words, the plaintiff lost his situation as in the employ of

[Demand of judgment.]

No. 92.

FOR SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously said to one *E. F.* concerning the plaintiff: [“He is a young man of remarkably easy conscience.”]
2. That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.
3. That in consequence of the said words [the said *E. F.* refused to employ the plaintiff as a clerk].

[Demand of judgment.]

No. 93.

FOR MALICIOUS PROSECUTION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant obtained a warrant of arrest from [a magistrate of the

THE FOURTH SCHEDULE—*continued.*

(*Forms of Plaints : D.—Plaints in Suits for Specific Property.*)

said city, *or, as the case may be* on a charge of _____, and the plaintiff was arrested thereon, and imprisoned for _____ [days or hours, and gave bail in the sum of _____ rupees to obtain his release].

2. That in so doing, the defendant acted maliciously and without reasonable or probable cause.

3. That on the _____ day of _____ 18____, the said magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.

4. That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; *or* that, in consequence of the said arrest, the plaintiff lost his situation as clerk to one *E. F.*, *or*, that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[*Demand of judgment.*]

D.—PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVEABLE PROPERTY.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That *X. Y.* was the absolute owner [of the estate, *or*, the share of the estate, called _____, situate in the district of _____, the Government-revenue of which is rupees _____ and the estimated value _____ rupees, *or*, of the house No. _____, street in the town of Calcutta, the estimated value of which is rupees _____].

2. That on the _____ day of _____ 18____, *Z.* illegally dispossessed the said *X. Y.* of the said estate [*or*, share *or* house].

3. That the said *X. Y.* has since died intestate, leaving the plaintiff, the said *A. B.*, his heir him surviving.

4. That the defendant withholds the possession of the estate [*or* share *or* house] from the plaintiff.

The plaintiff prays judgment .

(1) for the possession of the said premises ;

(2) for _____ rupees compensation for withholding the same.

Another Form.

A. B., the above-named plaintiff, states as follows :—

1. On the _____ day of _____, the plaintiff, by an instrument in writing, let to the defendant a house and premises [No. 52, Russell Street, in the _____] for a term of five years from the _____ day of _____, at the monthly rent of 300 rupees.

2. By the said instrument the defendant covenanted to keep the said house and premises in good and tenantable repair.

3. The said instrument also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

1. On the _____ day of _____ 18____, a month's rent became due, and on the _____ day of _____ 18____, another month's rent became due; on the _____ day of _____ 18____, both had been in arrear for twenty-one days, and both are still due.

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints : D.—Plaints in Suits for Specific Property.)*

5. On the same day of 18 , the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to reinstate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims :

- (1) possession of the said house and premises ;
- (2) rupees for arrears of rent ;
- (3) rupees compensation for the defendant's breach of his covenant to repair.
- (4) rupees for the occupation of the house and premises from the day 18 to the day of recovering possession.

No. 95.

BY THE TENANT.

*(Title.)**A. B.*, the above-named plaintiff, states as follows :—

1. That one *E. F.* is the absolute owner of [a piece of land in the town of Calcutta , bounded as follows :], the estimated value of which is rupees .
2. That on the day of 18 , the said *E. F.* let the said premises to the plaintiff for years, from
3. That the defendant withholds the possession thereof from the plaintiff.

[Demand of judgment.]

No. 96.

FOR MOVEABLE PROPERTY WRONGFULLY TAKEN.

*(Title.)**A. B.*, the above-named plaintiff, states as follows :—

1. That on the day of 18 , plaintiff owned [or was possessed of] one hundred barrels of flour, the estimated value of which is rupees.
 2. That on that day, at , the defendant took the same.
- The plaintiff prays judgment :

- (1) for the possession of the said goods, or for rupees in case such possession cannot be had ;
- (2) for rupees compensation for the detention thereof.

No. 97.

FOR MOVEABLES WRONGFULLY DETAINED.

*(Title.)**A. B.*, the above-named plaintiff, states as follows :—

1. That on the day of 18 , plaintiff owned [or state facts showing a right to the possession] the goods mentioned in the schedule hereto annexed [or describe the goods], the estimated value of which is rupees.
2. That from that day until the commencement of this suit the defendant has detained the same from the plaintiff.

THE FOURTH SCHEDULE—continued.

(Forms of Plaints: E.—Plaints in Suits for Special Relief.)

3. That before the commencement of this suit, to wit, on the day of 18 , the plaintiff demanded the same from the defendant, but he refused to deliver them.

The plaintiff prays judgment:

- (1) for the possession of the said goods, or for rupees, in case such possession cannot be had;
- (2) for rupees compensation for the detention thereof.

The Schedule.

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1 That on the day of 18 , at , the defendant [C. D.] for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell and deliver to the said C. D. [one hundred boxes of tea], the estimated value of which is rupees.

3. That the said representations were false, and were then known by the said C. D. to be so. [Or, That at the time of making the said representations, the said C. D. was insolvent, and knew himself to be so.]

4. That the said C. D. afterwards transferred the said goods to the defendant E. F. without consideration [or who had notice of the falsity of the representation].

The plaintiff prays judgment:

- (1) for the possession of the said goods, or for rupees, in case such possession cannot be had;
- (2) for rupees compensation for the detention thereof.

E.—PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(Title.)

A. B., the above named plaintiff, states as follows.—

1 That on the day of 18 , the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at , contained ten bighás.

2. That the plaintiff was thereby induced to purchase the same at the price of rupees in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.

3. That on the day of 18 , the plaintiff paid the defendant rupees as part of such purchase-money.

4. That the said piece of ground contained in fact only [five bighás].

The plaintiff prays judgment:

- (1) for rupees, with interest from the day of 18 ;
- (2) that the said agreement of purchase be delivered up and cancelled.

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints: E.—Plaints in Suits for Special Relief.)*

No. 100.

FOR AN INJUNCTION RESTRAINING WASTE.

*(Title.)**A. B.*, the above-named plaintiff, states as follows:—

1. That plaintiff is the absolute owner of [*describe the property*].
2. That the defendant is in possession of the same under a lease from the plaintiff.
3. That the defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.

The plaintiff prays judgment that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[*Pecuniary compensation might also be prayed*]

No. 101.

FOR ABATEMENT OF A NUISANCE.

*(Title.)**A. B.*, the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No. , street, Calcutta].
2. That the defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street].
3. That on the day of 18 , the defendant erected upon his said plot a slaughter-house, and still maintains the same; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].
4. That [the plaintiff has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same].

The plaintiff prays judgment that the said nuisance be abated.

No. 102.

FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

*(Title.)**A. B.*, the above-named plaintiff, states as follows:—[*As in Form No. 81.*]

The plaintiff prays judgment that the defendant be restrained by injunction from diverting the water as aforesaid.

No. 103.

FOR RESTORATION OF MOVEABLE PROPERTY, THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

*(Title.)**A. B.*, the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather which was executed by an eminent painter], and of which no duplicate

THE FOURTH SCHEDULE—*continued.*

(*Forms of Pleadings: E.—Pleadings in Suits for Special Relief.*)

exists [or, state any facts showing that the property is of a kind that cannot be replaced by money].

2. That on the _____ day of _____ 18, he deposited the same for safe keeping with the defendant.

3. That on the _____ day of _____ 18, he demanded the same from the defendant and offered to pay all reasonable charges for the storage of the same.

4. That the defendant refuses to deliver the same to the plaintiff, and threatens to conceal, dispose of, cut or injure the same if required to deliver it up.

5. That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the [painting].

The plaintiff prays judgment :

(1) that the defendant be restrained, by injunction, from disposing of, injuring or concealing the said [painting];

(2) that he return the same to the plaintiff.

No. 101.

INTERPLEADER.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. That before the date of the claims hereinafter mentioned, one *G. H.* deposited with the plaintiff [*describe the property*] for [safe keeping].

2. That the defendant, *C. D.*, claims the same [under an alleged assignment thereof to him from the said *G. H.*].

3. That the defendant, *E. F.*, also claims the same [under an order of the said *G. H.* transferring the same to him].

4. That the plaintiff is ignorant of the respective rights of the defendants.

5. That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the Court shall direct.

6. That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment :

(1) that the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto.

(2) that they be required to interplead together concerning their claims to the said property;

(3) that some person be authorized to receive the said property pending such litigation;

(4) that upon delivering the same to such [person], the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 105.

ADMINISTRATION BY CREDITOR.

(*Title.*)

A. B., the above-named plaintiff, states as follows :—

1. *E. F.*, late of _____, was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of _____, *here insert nature of debt and security, if any*.

2. The said *E. F.* made his will, dated the _____ day of _____ and thereof appointed *C. D.* executor [or, devised his estate in trust, &c., or, died intestate, as the case may be].

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints : E.—Plaints in Suits for Special Relief.)*

3. The said will was proved by the said *C. D.* [or, letters of administration were granted, &c.].

4. The defendant has possessed himself of the moveable [and immoveable, or, the proceeds of the immoveable] property of the said *E. F.*, and has not paid the plaintiff his said debt.

5. The said *E. F.* died on or about the _____ day of _____.

6. The plaintiff prays that an account may be taken of the moveable [and immoveable] property of the said *E. F.*, deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEE.

*(Title.)**[Alter Form No. 105 thus] :—*

[Omit paragraph 1 and commence paragraph 2] *E. F.*, late of _____, duly made his last will, dated the _____ day of _____, and thereof appointed *C. D.* executor, and by such will bequeathed to the plaintiff *[here state the specific legacy]*.

For paragraph 4 substitute—

The defendant is in possession of the moveable property of the said *E. F.*, and, amongst other things, of the said *[here name the subject of the specific bequest]*.

For the commencement of paragraph 6 substitute—

The plaintiff prays that the defendant may be ordered to deliver to him the said *[here name the subject of the specific bequest]*, or that, &c.

No. 107.

ADMINISTRATION BY PECUNIARY LEGATEE.

*(Title.)**[Alter Form No. 105 thus] :—*

[Omit paragraph 1 and substitute for paragraph 2] *E. F.*, late of _____, duly made his last will, dated the _____ day of _____, and thereof appointed *C. D.* executor, and by such will bequeathed to the plaintiff a legacy of _____ rupees.

In paragraph 4, substitute "legacy" for "debt."

Another Form.

Between *E. F.* ... Plaintiff,
and
G. H. ... Defendant.

E. F., the above-named plaintiff, states as follows :—

1. *A. B.* of *K* in the _____ duly made his last will, dated the [first day of March, 1873] whereby he appointed the defendant and *M. N.* [who died in the testator's lifetime] executors thereof, and bequeathed his property, whether moveable or immoveable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immoveable property for the person who would

THE FOURTH SCHEDULE—*continued.**(Forms of Plaints : E.—Plaints in Suits for Special Relief.)*

4. The plaintiff is desirous to account for all the rents and profits of the said immoveable property [and the proceeds of the sale of the said, or of part of the said, immoveable property, or moveable, or the proceeds of the sale of, or of part of, the said moveable, property, or the profits accruing to the plaintiff as such trustee in the execution of the said trust]; and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust estate may be administered in the Court for the benefit of the said C. D., the defendant, and all other persons who may be interested in such administration, in the presence of the said C. D. and such other persons so interested as the Court may direct, or that the said C. D. may show good cause to the contrary.

[N. B.—Where the suit is by a beneficiary, the plaint may be modelled, mutatis mutandis, on the plaint by a legatee.]

No. 109.

FORECLOSURE OR SALE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. By a mortgage-deed dated the _____ day of _____ 18____ a house with the garden and appurtenances, situated within the jurisdiction of this Court were conveyed by the defendant to him the plaintiff, his heirs [or executors, administrators,] and assigns, for securing the principal sum of Rs. _____ together with interest thereon at the rate of Rs. _____ per centum per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.

2. There is now due from the defendant to the plaintiff the sum of Rs. _____ for principal and interest on the said mortgage.

3. The plaintiff prays (a) that the Court will order the defendant to pay him the said sum of Rs. _____ with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the Court, and in default that the right to redeem the said mortgaged premises may be foreclosed and the plaintiff placed in possession of the same premises; or (b) that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs; and (c) that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent. per annum until realization; and (d) that for that purpose all proper directions may be given and accounts taken by the Court.

No. 110.

REDEMPTION.

(Title.)

[Alter Form No. 109 thus] :—

Transpose parties and also the facts in paragraph 1.

For paragraph 2, substitute—

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of Rs. _____ which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before filing this plaint, had notice.

For paragraph 3, substitute—

The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to re-convey the same to him upon payment of the said sum of Rs. _____ and interest, with such costs (if any) as the Court may order, upon a day to be named by the Court, and that the Court will give all proper directions for the preparation and execution of such re-conveyance and doing such other acts as may be necessary to put him into possession of the said premises, freed from the said mortgage.

THE FOURTH SCHEDULE—continued.

(Forms of Plaints: E.—Plaints in Suits for Special Relief.)

No. 111.

SPECIFIC PERFORMANCE (No. 1).

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. By an agreement dated the _____ day of _____ and signed by the above-named defendant, *C. D.*, he the said *C. D.* contracted to buy of [or sell to] him certain immoveable property therein described and referred to, for the sum of _____ rupees.

2. He has applied to the said *C. D.* specifically to perform the said agreement on his part, but he has not done so.

3. The said *A. B.* has been and still is ready and willing specifically to perform the agreement on his part of which the said *C. D.* has had notice.

4. The plaintiff prays that the Court will order the said *C. D.* specifically to perform the said agreement and to do all acts necessary to put the said *A. B.* in full possession of the said property [or to accept a conveyance and possession of the said property] and to pay the costs of the suit.

* [*N. B.*—In suit for delivery up, to be cancelled, of any agreement, omit paragraphs 2 and 3, and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled—such as that the plaintiff signed it by mistake, under duress, or by the fraud of the defendant—and alter the prayer according to the relief sought.]

No. 112.

SPECIFIC PERFORMANCE (No. 2).

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the _____ day of _____ 18____, the defendant was absolutely entitled to certain immoveable property described in the agreement hereto annexed.

2. That on the same day, the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.

3. That on the _____ day of _____ 18____, the plaintiff tendered _____ rupees to the defendant, and demanded a conveyance of the said property.

4. That on the _____ day of _____ 18____, the plaintiff again demanded such conveyance. Or, That the defendant refused to convey the same to the plaintiff.]

5. That the defendant has not executed such conveyance.

6. That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment:—

(1) that the defendant execute to the plaintiff a sufficient conveyance of the said property [following the terms of the agreement];

(2) for _____ rupees compensation for withholding the same.

No. 113.

PARTNERSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. He and the said *C. D.*, the defendant, have been for the space of _____ years [or months] last past carrying on business together at _____ within the

THE FOURTH SCHEDULE—*continued*.*(Forms of Concise Statements.)*

jurisdiction of this Court, under certain articles of partnership in writing, signed by them respectively [*or*, under a certain deed sealed and executed by them respectively, *or*, under a verbal agreement between them, the said plaintiff and defendant].

2. Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [*or* deed, *or* agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership-trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership-account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid, out of the partnership-assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles [*or* deed, *or* agreement], or that if the said assets shall prove insufficient, he the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by _____ of _____, pleader
for the plaintiff, [*or* by _____].

[*N. B.—In suits for winding-up of any partnership, omit the prayer for dissolution : but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.*]

No. 114.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, section 58.]

| | | |
|---|--|------------------------------|
| The plaintiff's claim is | rs. for money lent [and interest]. | Money lent. |
| The plaintiff's claim is | rs., whereof _____ rs. is for the price of goods | Several de- |
| sold, and _____ rs. for money lent, and _____ rs. for interest. | | mands. |
| The plaintiff's claim is | rs. for arrears of rent. | Rent. |
| The plaintiff's claim is | rs. for arrears of salary as a clerk [<i>or</i> , as the case may | Salary, &c. |
| be]. | | |
| The plaintiff's claim is | rs. for interest upon money lent. | Interest. |
| The plaintiff's claim is | rs. for a general average contribution. | General average. |
| The plaintiff's claim is | rs. for freight and demurrage. | Freight, &c. |
| The plaintiff's claim is | rs. for money deposited with the defendant as a banker. | Banker's balance. |
| The plaintiff's claim is | rs. for fees for work done [and _____ rs. money ex- | Fees, &c., as |
| pendent] as a pleader. | | pleader. |
| The plaintiff's claim is | rs. for commission earned as [<i>state character—as auc-</i> | Commission. |
| tioneer, cotton-broker, &c]. | | |
| The plaintiff's claim is | rs. for medical attendances. | Medical attendance. |
| The plaintiff's claim is | rs. for a return of premiums paid upon policies of in- | Return of premium. |
| surance. | | |
| The plaintiff's claim is | rs. for the warehousing of goods. | Warehouse-rent. |
| The plaintiff's claim is | rs. for the carriage of goods by railway. | Carriage of goods. |
| The plaintiff's claim is | rs. for the use and occupation of a house. | Use and occupation of house. |
| The plaintiff's claim is | rs. for the hire of [furniture]. | Hire of goods. |
| The plaintiff's claim is | rs. for work done as a [surveyor]. | Work done. |

THE FOURTH SCHEDULE—*continued.*

(Forms of Concise Statements.)

| | | |
|--|--------------------------|--|
| Board and lodging. | The plaintiff's claim is | rs. for board and lodging. |
| Money received. | The plaintiff's claim is | rs. for the [board, lodging and] tuition of <i>X. Y.</i> |
| Fees &c. due. | The plaintiff's claim is | rs. for money received by the defendant as pleader [<i>or</i> factor, <i>or</i> collector, <i>or</i> &c.] of the plaintiff. |
| Money overpaid. | The plaintiff's claim is | rs. for fees received by the defendant under colour of the office of |
| Return of money by stake-holder. | The plaintiff's claim is | rs. for a return of money overcharged for the carriage of goods by railway. |
| Money won from stake-holder. | The plaintiff's claim is | rs. for a return of fees overcharged by the defendant as |
| Money entrusted to agent. | The plaintiff's claim is | rs. for a return of money deposited with the defendant as stake-holder. |
| Money obtained by fraud. | The plaintiff's claim is | rs. for money entrusted to the defendant as stake-holder and become payable to plaintiff. |
| Money paid by mistake. | The plaintiff's claim is | rs. for a return of money entrusted to the defendant as agent of the plaintiff. |
| Money paid for consideration which has failed. | The plaintiff's claim is | rs. for a return of money obtained from the plaintiff by fraud. |
| Money paid by surety for defendant. | The plaintiff's claim is | rs. for a return of money paid to the defendant by mistake. |
| Rent paid. | The plaintiff's claim is | rs. for a return of money paid to the defendant for [work to be done, <i>or</i> , work left undone; <i>or</i> , a bill to be taken up, <i>or</i> , a bill not taken up; <i>or</i> , &c.]. |
| Money paid on accommodation bill. | The plaintiff's claim is | rs. for a return of money paid as a deposit upon shares to be allotted. |
| Contribution by surety. | The plaintiff's claim is | rs. for money paid for the defendant as his surety. |
| By co-debtor. | The plaintiff's claim is | rs. for money paid for rent due by the defendant. |
| Money paid for calls. | The plaintiff's claim is | rs. upon a bill of exchange accepted [<i>or</i> indorsed] for the defendant's accommodation. |
| Money payable under award. | The plaintiff's claim is | rs. for a contribution in respect of money paid by the plaintiff as surety. |
| Litigation. | The plaintiff's claim is | rs. for a contribution in respect of a joint debt of the plaintiff and the defendant, paid by the plaintiff. |
| Money-bond. | The plaintiff's claim is | rs. for money paid for calls upon shares, against which the defendant was bound to indemnify the plaintiff. |
| Foreign judgment. | The plaintiff's claim is | rs. for money payable under an award. |
| Bills of exchange, &c. | The plaintiff's claim is | rs. upon a policy of insurance upon the life of <i>X. Y.</i> , deceased. |
| | The plaintiff's claim is | rs. upon a bond to secure payment of |
| | The plaintiff's claim is | rs. upon a judgment of the Court in [the Empire of Russia]. |
| | The plaintiff's claim is | rs. upon a cheque drawn by the defendant. |
| | The plaintiff's claim is | rs. upon a bill of exchange accepted [<i>or</i> drawn, <i>or</i> indorsed] by the defendant. |
| | The plaintiff's claim is | rs. upon a promissory note made [<i>or</i> indorsed] by the defendant. |
| | The plaintiff's claim is | rs. against the defendant, <i>A. B.</i> , as acceptor, and against the defendant, <i>C. D.</i> , as drawer [<i>or</i> indorser] of a bill of exchange. |
| Surety. | The plaintiff's claim is | rs. against the defendant as surety for the price of good sold. |
| | The plaintiff's claim is | rs. against the defendant, <i>A. B.</i> , as principal, and against the defendant, <i>C. D.</i> , as surety, for the price of goods sold [<i>or</i> for arrears of rent, <i>or</i> for money lent, <i>or</i> for money received by the defendant, <i>A. B.</i> , as traveller for the plaintiff, <i>or</i> , &c.] |
| Calls. | The plaintiff's claim is | rs. for calls upon shares. |

THE FOURTH SCHEDULE—continued.

(Forms of Concise Statements.)

Indorsement for Costs, &c.

[Add to the above forms] and to the plaintiff or his pleader within days, *[or if the summons is to be served out of the jurisdiction, insert the time for appearance limited by the order]* from the service hereof, further proceedings will be stayed.

Damages and other Claims.

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as Agent, &c. traveller.

The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and rs. for arrears of wages].

The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.

The plaintiff's claim is for damages for breach of duty as factor [or, &c.] of the plaintiff [and _____] rs. for money received as factor, or &c.].

The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of Apprentices, X. Y. to the defendant [or plaintiff].

The plaintiff's claim is for damages for non-compliance with the award of X. Y.

The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution].

The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff, By husband
C. D. and wife.

The plaintiff's claim is for damages for assault, by the defendant, *C. D.*

The plaintiff's claim is for damages for injury by the defendant's negligence as pleader of the plaintiff.

The plaintiff's claim is for damages for negligence in the custody of goods [and for wrong- Bailment.
fully detaining the same].

The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and pledged, for wrongfully detaining the same].

The plaintiff's claim is for damages for negligence in the custody of furniture [or, a Hire. carriage] lent on hire [and for wrongfully, &c.].

The plaintiff's claim is for damages for wrongfully neglecting [or refusing] to pay the Banker.
plaintiff's cheque.

The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's Bill drafts.

The plaintiff's claim is upon a bond conditioned not to carry on the trade of a . Bond.

The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway. Carrier

The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.

The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.

The plaintiff's claim is for damages for breach of charter-party of ship [*Mary*].

The plaintiff's claim is for return of household furniture, [or, &c.,] or their value, and for damages for detaining the same.

The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, &c.

The plaintiff's claim is for damages for libel.

The plaintiff's claim is for damages for slander.

The plaintiff's claim is for damages for improperly distraining.

[This Form shall be sufficient whether the distress complained of be wrongful or excessive,
or irregular.]

The plaintiff's claim is to recover possession of a house, No. _____ in _____ Ejectment.
 Street, or of a farm called Blackacre, situate in the _____ of _____ in the _____
 of _____

THE FOURTH SCHEDULE—*continued.*

(Forms of Concise Statements.)

| | |
|---------------------------------------|---|
| To establish title and recover rents. | The plaintiff's claim is to establish his title to [<i>here describe property</i>] and to recover the rents thereof. [<i>The two previous Forms may be combined.</i>] |
| Fishcry. | The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing. |
| Fraud. | The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [<i>or a business, or shares, or, &c.</i>]. The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of <i>A. B.</i> |
| Guarantee. | The plaintiff's claim is for damages for breach of a contract of guarantee for <i>A. B.</i> The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain. |
| Insurance. | The plaintiff's claim is for a loss under a policy upon the ship [<i>Royal Charter</i>], and freight of cargo [<i>or for return of premiums</i>]. [<i>This Form shall be sufficient whether the loss claimed be total or partial.</i>] |
| Fire-insurance. | The plaintiff's claim is for a loss under a policy of fire-insurance upon house and furniture. The plaintiff's claim is for damages for breach of a contract to insure a house. |
| Landlord and tenant. | The plaintiff's claim is for damages for breach of a contract to keep a house in repair. The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm. |
| Medical man. | The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man. |
| Mischivous animal. | The plaintiff's claim is for damages for injury by the defendant's dog. |
| Negligence. | The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants. The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants. The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway-station from the defective condition of the station. |
| Act XIII of 1875 | The plaintiff's claim is as executor of <i>A. B.</i> , deceased, for damages for the death of the said <i>A. B.</i> , from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants. |
| Promise of marriage. | The plaintiff's claim is for damages for breach of promise of marriage. |
| Sale of goods. | The plaintiff's claim is for damages for breach of contract to accept and pay for goods. The plaintiff's claim is for damages for non-delivery [<i>or short delivery, or defective quality, or other breach of contract of sale</i>] of cotton [<i>or, &c.</i>]. |
| Sale of land. | The plaintiff's claim is for damages for breach of warranty of a horse. The plaintiff's claim is for damages for breach of a contract to sell [<i>or purchase</i>] land. The plaintiff's claim is for damages for breach of a contract to let [<i>or take</i>] a house. The plaintiff's claim is for damages for breach of a contract to sell [<i>or purchase</i>] the lease, with good-will, fixtures, and stock-in-trade of a public-house. The plaintiff's claim is for damages for breach of covenant for title [<i>or for quiet enjoyment, or, &c.</i>] in a conveyance of land. |
| Trespass on land. | The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [<i>or cutting his grass, or felling his timber, or pulling down his fences, or removing his gate, or using his road or path, or crossing his field or depositing sand there, or carrying away gravel from thence, or carrying away stones from his river</i>]. |
| Support. | The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [<i>or house, or mine</i>]. |
| Way. | The plaintiff's claim is for damages for wrongfully obstructing a way [<i>public highway, or private way</i>]. |
| Water-course. | The plaintiff's claim is for damage for wrongfully diverting [<i>or obstructing, or polluting, or diverting water from</i>] a water-course. The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [<i>or into the plaintiff's mine</i>]. |

THE FOURTH SCHEDULE—*continued.**Forms of Concise Statements.*

The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.

The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture. Pasture.

[*This Form shall be sufficient whatever the nature of the right to pasture be.*]

The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house. Light.

The plaintiff's claim is for damages for the infringement of the plaintiff's patent. Patent.

The plaintiff's claim is for damages for the infringement of the plaintiff's copyright. Copyright.

The plaintiff's claim is for damages for wrongfully using [*or imitating*] the plaintiff's trademark. Trademark.

The plaintiff's claim is for damages for breach of a contract to build a ship [*or to repair a house, &c.*] Work.

The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, &c.

The plaintiff's claim is for damages to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [*or, &c.*].

The plaintiff's claim is for damages from nuisance by noise from the defendant's works [*or stables, or, &c.*] Nuisance.

[*Add to indorsement*]:—and for an injunction.

Injunction.

[*Add to indorsement where claim is to land, or to establish title, or both*]:—

and for mesne profits.

Mesne profits.

and for an account of rents or arrears of rent.

Arrears of rent.

and for breach of covenant for [repairs].

Breach of covenant.

1. Creditor to administer Estate.

The plaintiff's claim is as a creditor of *X. Y.*, of _____, deceased to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the administrator of the said *X. Y.* [and the defendants, *E. F.* and *G. H.*, as his co-heirs at law].

2. Legatee to administer Estate.

The plaintiff's claim is as a legatee under the will dated the _____ day of _____, 18____, of *X. Y.*, deceased, to have the moveable and immoveable property of the said *X. Y.* administered. The defendant, *C. D.*, is sued as the executor of the said *X. Y.* [and the defendants *E. F.* and *G. H.* as his devisees].

3. Partnership.

The plaintiff's claim is to have an account taken of the partnership-dealings between the plaintiff and defendant [under articles of partnership dated the _____ day of _____], and to have the affairs of the partnership wound up.

4. By Mortgagee.

The plaintiff's claim is to have an account taken of what is due to him for principal, interest and costs on a mortgage dated the _____ day of _____, made between [*parties*] [*or, by deposit of title-deeds*], and that the mortgage may be enforced by foreclosure or sale.

5. By Mortgagor.

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated _____ and made between [*parties*], and to redeem the property comprised therein.

THE FOURTH SCHEDULE—*continued*.

(Forms: Probate.)

6. *Raising Portions.*

The plaintiff's claim is that the sum of _____ rs. which by a deed of settlement dated _____ was provided for the portions of the younger children of _____ may be raised.

7. *Execution of Trusts.*

The plaintiff's claim is to have the trusts of an indenture dated _____ and made between [parties] carried into execution.

8. *Cancellation or Rectification.*

The plaintiff's claim is to have a deed dated _____ and made between [parties] set aside or rectified.

9. *Specific Performance.*

The plaintiff's claim is for specific performance of an agreement dated the _____ day of _____ for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at _____.

No. 115.

PROBATE.

1. *By an executor or legatee propounding a will in solemn form.*

The plaintiff claims to be executor of the last will dated the _____ day of _____ of C. D., late of _____, deceased, who died on the _____ day of _____, and to have the said will established. This summons is issued against you as one of the next-of-kin of the said deceased [or, as the case may be].

2. *By an executor or legatee of a former will, or a next-of-kin, &c., of the deceased, seeking to obtain the revocation of a probate granted in common form.*

The plaintiff claims to be executor of the last will dated the _____ day of _____ of C. D., late of _____, deceased, who died on the _____ day of _____, and to have the probate of a pretended will of the said deceased dated the _____ day of _____ revoked. This summons is issued against you as the executor of the said pretended will [or, as the case may be].

3. *By an executor or legatee of a will when letters of administration have been granted as in an intestacy.*

The plaintiff claims to be executor of the last will of C. D., late of _____, deceased, who died on the _____ day of _____, dated the _____ day of _____.

The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4. *By a person claiming a grant of administration as a next-of-kin of the deceased, but whose interest as next-of-kin is disputed.*

The plaintiff claims to be the brother and sole next-of-kin of C. D., of _____, deceased, who died on the _____ day of _____, intestate, and to have as such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next-of-kin of the deceased [or, as the case may be].

THE FOURTH SCHEDULE—*continued.*

(Forms of Summons.)

No. 117.

SUMMONS FOR DISPOSAL OF SUIT.

Sections 64 and 68 of the Code of Civil Procedure.

(Title.)

To

dwelling at

NOTICE—1. Should you apprehend your witnesses will not attend of their own accord, you can have summons from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

WHEREAS
has instituted a suit against you for
you are hereby summoned to appear in this Court in person or by a duly authorized pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions on

the day of
18, at o'clock in the forenoon,
to answer the above-named plaintiff; and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day; and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the suit will be heard and determined in your absence; and you will bring with you, or send by your pleader

, which the plaintiff desires to inspect and any documents on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court, this
day of 18.


 L. S.

Judge.

NOTE.—If either statements are required, say—You are [or such a party is, as the case may be] required to put in a written statement by the day of .

— — —

No. 118.

SUMMONS FOR SETTLEMENT OF ISSUES.

Sections 64 and 68 of the Code of Civil Procedure

(Title.)

To

dwelling at

NOTICE—1. Should you apprehend your witnesses will not attend of their own accord, you can have summonses from this Court to compel the attendance of any witness, and the production of any document that you have a right to call on the

WHEREAS
has instituted a suit against you for
you are hereby summoned to appear in this Court in person or by a duly authorized pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on

THE FOURTH SCHEDULE—continued.

(Forms of Summons.)

witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2 If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

18, at the _____ day of _____, at _____ o'clock in the forenoon, to answer the above-named plaintiff; and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the issues will be settled in your absence; and you will bring with you, or send by your pleader _____

_____, which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____

L. S.

Judge.

NOTE—If written statements are required, say—You are [or such a party is, as the case may be] required to put in a written statement by the _____ day of _____

No. 119.

SUMMONS TO APPEAR.

Section 68 of the Code of Civil Procedure.

No. of Suit.

IN THE COURT OF _____

AT _____

Plaintiff.
Defendant.

To _____

(Name, description and address.)

WHEREAS [here enter the name, description and address of the plaintiff] has instituted a suit in this Court against you [here state the particulars of the claim as in the register]: you are hereby summoned to appear in this Court in person on the _____ day of _____ at _____ in the forenoon [If not specially required to appear in person, state—“in person or by a pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions”] to answer the above-named plaintiff. [If the summons be for the final disposal of the suit, this further direction shall be added here; “and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day”]; and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff], which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____

L. S.

Judge.

THE FOURTH SCHEDULE—*continued.**(Forms for transmission of Summons.)*

No. 120.

ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF _____, AT _____
 Civil Suit, No. _____ of 18 ____.

A. B. of
against
C. D. of

The _____ day of _____ 18 ____.

WHEREAS it is stated in the plaint that _____, the defendant in the above suit _____ is at present residing in _____, but that the right to sue accrued within the jurisdiction of this Court; it is ordered that a summons returnable on the _____ day of _____ 18 ____, be forwarded, for service on the said defendant, to the Court of _____ with a duplicate of this proceeding.

L. S.

Judge.

No. 121.

TO ACCOMPANY RETURN OF SUMMONS OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF _____, AT _____
 Civil Suit, No. _____ of 18 ____.
 The _____ day of _____ 18 ____.

A. B. of
against
C. D. of

Read proceeding from the _____ forwarding _____ in
 _____ civil _____ No. _____ of that Court. _____
 for service on _____

Read bailiff's endorsement on the back of the process stating that the _____
 and proof of the above having been duly taken by me on the [oath or] affirma-
 tion of _____ and _____ it is ordered that the _____
 copy of this proceeding. _____ be returned to the _____ with a

L. S.

Judge.

NOTE.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

THE FOURTH SCHEDULE—*continued.*

(Forms: Defendant's Statement; Interrogatories; Notice to produce Documents.)

No. 122.

DEFENDANT'S STATEMENT.

Section 110 of the Code of Civil Procedure.

(Title.)

I, the undersigned defendant [*or one of the defendants*], disclaim all interest under the will of the said *E. F.* in the plaint, named [*or, as heir-at-law, or, as next-of kin, or one of the next-of-kin, of E. F., deceased, in the said plaint named*].

Or, I, the undersigned defendant, state that I admit [or deny] [here repeat in the language of the plaint the statements admitted or denied].

Or, I, the undersigned defendant, submit that, upon the facts stated in the plaint, it does not appear that there is any agreement which can be legally enforced [or that it appears upon the said plaint that I am jointly liable with one E. F., who is not a party to the suit, and not severally liable as by the plaint appears, or, that it appears by the said plaint that G. H. should have been a joint-plaintiff with the said A. B. in the said suit, or, as the case may be].

Or, that the plaintiff has conveyed his interest in the said mortgage [or right to redeem] to one I. J. [or, that I have conveyed or assigned to H. L. by way of further charge for securing the sum of Rs. , the right to redeem in the property sought by the suit to be foreclosed].

Or, that since the dissolution of the partnership the plaintiff has executed an instrument, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership-trading [or, as the case may be].

(Signed) C. D.,
Defendant.

No. 123.

INTERROGATORIES.

Section 121 of the Code of Civil Procedure.

IN THE COURT OF , AT .
Civil Suit, No. . of 18 .
A. B.
against
C. D., E. F. and G. H.

Interrogatories on behalf of the above-named A. B. [*or C. D.*] for the examination of the above-named [*E. F. and G. H., or A. B.*]

1. Did not, &c.

2. Has not, &c.

The defendant E. F. is required to answer the interrogatories numbered .

The defendant G. H. is required to answer the interrogatories numbered .

No. 124.

FORM OF NOTICE TO PRODUCE DOCUMENTS.

Section 131 of the Code of Civil Procedure.

IN THE COURT OF , AT
Civil Suit, No. . of 18 .
A. B.
against
C. D.

Take notice that the plaintiff [*or defendant*] requires you to produce for his inspection

THE FOURTH SCHEDULE—*continued.*(Forms: *Summons to attend and give Evidence.*)

the following documents referred to in your plaint [or written statement, or affidavit], dated
 the day of 18 .

Describe documents required.

X. Y., Pleader for the plaintiff [or the defendant]

To Z.,

Pleader for the defendant [or plaintiff].

No. 125.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

(Title.)

To

WHEREAS your attendance is required to
 on behalf of the in the above cause, you are hereby
 required [personally to appear before this Court] on the day of
 18 , at the hour of A.M. [and] to bring with you or to send to this
 Court .

A sum of Rs. , being your travelling and other expenses and subsistence-
 allowance for one day, is herewith sent. If you do not comply with this order, you will be
 subject to the consequence of non-attendance laid down in the Code of Civil Procedure, sec-
 tion 170.

Notice—(1). If you are summoned only to produce a document and not to give evidence,
 you shall be deemed to have complied with the summons if you cause such document to be
 produced in this Court on the day and hour aforesaid.

(2). If you are to be detained beyond the day aforesaid, a sum of Rs.
 will be tendered to you for each day's attendance beyond the day specified.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 126.

Another Form.

No. of suit.

IN THE COURT OF , AT .

Plaintiff.

Defendant.

To

[Name, description and address.]

You are hereby summoned to appear in this Court in person on the

THE FOURTH SCHEDULE—*continued.*

(Forms: Money-decrees.)

day of _____ at _____ in the forenoon, to give evidence on behalf of the plaintiff [or the defendant] in the above-mentioned suit, and to produce [here describe with convenient certainty any document the production of which may be required. If the summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly], and you are not to depart thence until you have been examined [or have produced the document] and the Court has seen, or unless you have obtained the leave of the Court.

FORMS OF DECREES.

No. 127.

SIMPLE MONEY-DECREE.

(Title.)

Claim for
THIS cause coming on _____ for final disposal before
in the presence of _____, on the part of the plaintiff, and
on the part of the defendant, it is ordered that the
do pay to _____ the _____ the sum of Rs. _____, with
interest thereon at the rate of _____ per cent. per _____ from _____
to the date of realization of the said sum, and do also pay to the
the costs of this suit as taxed by the officer of the Court, with interest
thereon at the rate aforesaid from the date of taxation to the date of realization.

Costs of Suit.

| PLAINTIFF. | Rs. | A. | P. | DEFENDANT. | Rs. | A. | P. |
|---|-----|----|----|---------------------------------|-----|----|----|
| 1. Stamp for plaint . . . | | | | Stamp for power . . . | | | |
| 2. Do. for power . . . | | | | Do. for petition . . . | | | |
| 3. Do. for exhibits . . . | | | | Pleader's fee . . . | | | |
| 4. Pleader's fees on Rs. . . | | | | Subsistence for witnesses . . . | | | |
| 5. Translation-fee . . . | | | | Service of process . . . | | | |
| 6. Subsistence for witness for attendance . . . | | | | Translation-fee | | | |
| 7. Commissioner's fee . . . | | | | Commissioner's fee . . . | | | |
| 8. Service of process . . . | | | | | | | |
| 9. &c. | | | | | | | |
| TOTAL | | | | TOTAL | | | |

GIVEN under my hand and the seal of the Court, this

day of 18 .

L. S.

Judge.

THE FOURTH SCHEDULE—*continued.**(Forms : Decrees ; Order in Administration-suit.)*

No. 128.

DECREE FOR SALE IN A SUIT BY A MORTGAGEE OR PERSON ENTITLED TO A LIEN.

(Title.)

It is ordered that it be referred to the Registrar [*or* Taxing Officer] to take an account of what is due to the plaintiff for principal and interest on the mortgage [*or* lien] mentioned in the plaint, and to tax the plaintiff's costs of this suit, and that the Registrar [*or* Taxing Officer] do declare in Court on the _____ day of _____ what he shall find to be due for principal and interest as aforesaid, and for costs ; And upon the defendant paying into Court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within six months from the date of declaring in Court the amount so due ; it is ordered that the plaintiff do re-convey the said mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from, or under him, and do deliver up to the defendant or to such person as he appoints all documents in his custody or power relating thereto, and that upon such re-conveyance being made, and documents being delivered up, the Registrar [*or* Taxing Officer] shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest and costs ; but in default of the defendant paying into Court such principal, interest and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [*or* the premises subject to the said lien] be sold with the approbation of the Registrar [*or* Taxing Officer]. And it is ordered that the proceeds of such sale (after defraying thereout the expenses of the sale) be paid into Court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest and costs as aforesaid, and that the balance (if any) shall be paid to the defendant or other person entitled to receive the same.

No. 129.

Final Decree^a FOR FORECLOSURE.*(Title.)*

WHEREAS it appears to the Court that the defendant has not paid into Court the sum _____ which was on the _____ day of _____ last declared in Court to be due to the plaintiff for principal and interest upon the mortgage in the plaint mentioned, and for costs, pursuant to the order made in this suit on the _____ day of _____ last, and that the period of six months has elapsed since the said _____ day of _____ .

It is ordered that the defendant do stand absolutely debarred of all right to redeem the said mortgaged premises.

No. 130.

PRELIMINARY ORDER—ADMINISTRATION-SUIT.

Section 213 of the Code of Civil Procedure.

(Title.)

It is ordered that the following accounts and inquiries be taken and made ; that is to say :—

In creditor's suit :—

1. That an account be taken of what is due to the plaintiff and all other the creditors of the deceased.

^a In places in which the Transfer of Property Act is in force, read " Decree absolute"—see Act IV of 1882, section 87, and section 3 of this Act,

THE FOURTH SCHEDULE—*continued.*

(Forms: Order in Administration-suit.)

In suits by legatees—

2. An account be taken of the legacies given by the testator's will.

In suits by next-of-kin—

An inquiry be made and account taken of what, or of what share, if any, the plaintiff is entitled to as next-of-kin [or one of the next-of-kin] of the intestate.

[After the first paragraph, the Order will, where necessary, order, in a creditor's suit, inquiry and accounts for legatees, heirs-at-law and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to inquire and take an account of creditors will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.]

3. An account of the funeral and testamentary expenses.

4. An account of the moveable property of the deceased come to the hands of the defendant, or to the hands of any other person by his order or for his use.

5. An inquiry what part (if any) of the moveable property of the deceased is outstanding and undisposed of.

6. And it is further ordered, that the defendant do, on or before the day of next, pay into Court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the Registrar shall find it necessary for carrying out the objects of the suit to sell any part of the moveable property of the deceased, that the same be sold accordingly, and the proceeds paid into Court.

8. And that Mr. E. F. be Receiver in the suit [or proceeding], and receive and get in all outstanding debts and outstanding moveable property of the deceased, and pay the same into the hands of the Registrar [and shall give security by bond for the due performance of his duties to the amount of rupees].

9. And it is further ordered, that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say,—

(a) an inquiry what immoveable property the deceased was seized of or entitled to at the time of his death;

(b) an inquiry what are the incumbrances (if any) affecting the immoveable property of the deceased, or any part thereof;

(c) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

10. And that the immoveable property of the deceased, or so much thereof as shall be necessary to make up the fund in Court sufficient to carry out the object of the suit, be sold with the approbation of the Judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

11. And it is ordered, that G. H. shall have the conduct of the sale of the immoveable property, and shall prepare the conditions and contracts of sale subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall be submitted to the Judge to settle.

12. And it is further ordered, that for the purpose of the inquiries hereinbefore directed, the Registrar shall advertize in the newspapers according to the practice of the Court, or shall make such inquiries in any other way which shall appear to the Registrar to give the most useful publicity to such inquiries.

13. And it is ordered, that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the day of and that the Registrar do certify the result of the inquiries and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

14. And, lastly, it is ordered, that this suit [or matter] stand adjourned for making final decree to the day of

[Such part only of this order is to be used as is applicable to the particular case.]

THE FOURTH SCHEDULE—*continued.*

(*Forms: Decrees in Administration-suit.*)

No. 131.

FINAL DECREE IN AN ADMINISTRATION-SUIT BY A LEGATEE.

Section 213 of the Code of Civil Procedure.

1. It is ordered that the defendant do on or before the day of pay into Court the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the estate of , the testator, and also the sum of Rs. for interest, at the rate of Rs. per centum per annum, from the day of to the day of amounting together to the sum of Rs.

2. Let the Registrar [*or* Taxing Officer] of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said costs, when so taxed, be paid out of the said sum of Rs. ordered to be paid into Court as aforesaid, as follows:—

(a)—The costs of the plaintiff to Mr. , his attorney [*or* pleader], and the costs of the defendant to Mr. , his attorney [*or* pleader].

(b)—And (*if any debts are due*) with the residue of the said sum of Rs. , after payment of the plaintiff's and defendant's costs as aforesaid, let the sums found to be owing to the several creditors mentioned in the schedule to the Registrar's certificate, together with subsequent interest on such of the debts as bear interest, be paid; and after making such payments, let the amount coming to the several legatees mentioned in the schedule, together with subsequent interest (to be verified as aforesaid), be paid to them.

3. And if there should then be any residue, let the same be paid to the residuary legatee.

DECREE IN AN ADMINISTRATION-SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE FOR THE PAYMENT OF LEGACIES.

Section 213 of the Code of Civil Procedure.

1. Declare that the defendant is personally liable to pay the legacy of Rs. bequeathed to the plaintiff;

2 And it is ordered, that an account be taken of what is due for principal and interest on the said legacy;

3. And it is also ordered, that the defendant do, within weeks after the date of the Registrar's certificate, pay to the plaintiff the amount of what the Registrar shall certify to be due for principal and interest;

4. And it is ordered, that the defendant do pay the plaintiff his costs of suit, the same to be taxed in case the parties differ.

FINAL DECREE IN AN ADMINISTRATION-SUIT BY NEXT-OF-KIN.

Section 213 of the Code of Civil Procedure.

1. Let the Registrar of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said plaintiff's costs, when so taxed, be paid by the defendant to the plaintiff out of the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the personal estate of *E. F.*, the intestate, within one week after the taxation of the said costs by the said Registrar, and let the defendant retain for her own use out of such sum her costs, when taxed.

2. And it is ordered, that the residue of the said sum of Rs. , after payment of the plaintiff's and defendant's costs as aforesaid, be paid and applied by defendant as follows:—

(a)—Let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay one-third share of the said residue to the plaintiffs, *A. B.*, and *C.*, his wife, in her right, as the sister and one of the next-of-kin of the said *E. F.*, the intestate.

THE FOURTH SCHEDULE—*continued.*

(Forms: Order and Decree in Partnership-suit.)

- (b)—Let the defendant retain for her own use one other third share of the said residue, as the mother, and one other of the next-of-kin of the said *E. F.*, the intestate.
- (c)—And let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay the remaining one-third share of the said residue to *G. H.*, as the brother and the other next-of-kin of the said *E. F.* the intestate.

No. 132.

ORDER—DISSOLUTION OF PARTNERSHIP.

Section 215 of the Code of Civil Procedure.

(Title.)

It is declared that the partnership in the plaint mentioned between the plaintiff and defendant ought to stand dissolved as from the day of , and it is ordered that the dissolution thereof as from that day be advertised in the *Gazette, &c.*

And it is ordered that be the Receiver of the partnership-estate and effects in this suit, and do get in all the outstanding book-debts and claims of the partnership.

And it is ordered that the following accounts be taken:—

1. An account of the credits, property and effects now belonging to the said partnership;
2. An account of the debts and liabilities of the said partnership;
3. An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts.

And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaint mentioned, and the stock-in-trade, be sold on the premises, and that the Registrar may, on the application of any of the parties, fix a reserve bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken and all the other acts required to be done be completed before the day of , and that the Registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of .

And, lastly, it is ordered that this suit stand adjourned for making a final decree to the day of .

No. 133.

PARTNERSHIP—FINAL DECREE.

Section 215 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No.

A. B. of

against

C. D. of

It is ordered that the fund now in Court, amounting to the sum of Rs. , be applied as follows:—

1. In payment of the debts due by the partnership set forth in the Registrar's certificate, amounting in the whole to Rs. .

2. In payment of the costs of all parties in this suit, amounting to Rs. .
[*These costs must be ascertained before the decree is drawn up.*]

3. In payment of the sum of Rs. to the plaintiff as his share of the partnership-assets, of the sum of Rs. , being the residue of the said sum of Rs. now in Court, to the defendant as his share of the partnership-assets.

[*Or,* And that the remainder of the said sum of Rs. be paid to the said plaintiff [*or* defendant] in part payment of the sum of Rs. certified to be due to him in respect of the partnership-accounts.]

THE FOURTH SCHEDULE—continued.

(Forms: Certificate of Non-satisfaction of Decree; Notice to shew cause against Execution.)

And that the defendant [or plaintiff] do on or before the day of
pay to the plaintiff [or defendant] the sum of Rs.
being the balance of the said sum of Rs. due to him, which will then
remain due.

No. 134.

CERTIFICATE OF NON-SATISFACTION OF DECREE.

Section 224 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18 .

A. B. of

against

C. D. of

CERTIFIED that no [or partial, as the case may be, and, if partial, state to what extent]
satisfaction of the decree of this Court, in Civil suit No. of 18 , a copy
of which is hereunto attached, has been obtained by execution within the jurisdiction of
this Court.

GIVEN under my hand and the seal of the Court, this day of
18 .

L. S.

Judge

No. 135

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.

Section 243 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18

Miscellaneous No.

of 18

A. B. of

against

C. D. of

To

WHEREAS

has made application to this Court for execution of decree in Civil Suit
No. 18 , this is to give you notice that you are to appear before this Court
on the day of 18 , either in
person, or by a pleader of this Court, or agent duly authorized and instructed, to show
cause, if any, why execution should not be granted.

GIVEN under my hand and the seal of the Court, this day of
18

L. S.

Judge

THE FOURTH SCHEDULE—*continued.*(Forms: *Warrant of Attachment; Warrant to give Possession.*)

No. 136.

WARRANT OF ATTACHMENT OF MOVEABLE PROPERTY IN DEFENDANT'S POSSESSION IN
EXECUTION OF A DECREE FOR MONEY.

Section 254 of the Code of Civil Procedure.

(Title.)

TO THE BAILIFF OF THE COURT.

WHEREAS on the 18 day of 18 , was ordered, by decree of this Court, passed in Suit No. of , to pay to the plaintiff the sum of Rs. as noted in the margin; and whereas the said sum of Rs. has not been paid.

| DECREE. | | | |
|----------------------------|--|--|--|
| Principal | | | |
| Interest | | | |
| Costs | | | |
| Costs of decree | | | |
| Interest thereon | | | |
| Total of attachment. . . . | | | |
| TOTAL | | | |

THESE ARE TO COMMAND YOU to attach the moveable property of the said as set forth in the list hereunto annexed, or which shall be pointed out to you by the said , and unless the said shall pay to you the said sum of Rs. together with Rs.

the costs of this attachment, to hold the same until further orders from this Court.

YOU ARE FURTHER COMMANDED to return this Warrant on or before the day of 18 , with an endorsement certifying the date and manner in which it has been executed, or why it has not been executed.

GIVEN under my hand and the seal of the Court, this 18 day of .

Schedule

L. S.

Judg

No. 137.

WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, &c.

Section 263 of the Code of Civil Procedure.

(Title.)

TO THE BAILIFF OF THE COURT.

WHEREAS in the occupancy of , the plaintiff in this suit: you are hereby directed to has been decreed to , the plaintiff in this suit: you are hereby directed to put the said in possession of the same, and you are hereby authorized to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

THE FOURTH SCHEDULE—*continued.*

(*Forms: Prohibitory Orders of Attachment in Execution.*)

No. 138.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

Section 268 of the Code of Civil Procedure.

(*Title.*)

To
 WHEREAS
 has failed to satisfy a decree passed against _____ on the _____ day of _____
 18 _____ in favour of _____ for Rs. _____
 : it is ordered that the defendant be, and is hereby, prohibited and restrained,
 until the further order of this Court, from receiving from _____ the follow-
 ing property in the possession of the said _____
 , that is to say, _____ to which
 the defendant is entitled, subject to any claim of the said _____, and the
 said _____ is hereby prohibited and restrained, until the further order of this
 Court, from delivering the said property to any person or persons whomsoever.
 GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____.

L. S.

Judge.

No. 139.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT SECURED BY NEGOTIABLE INSTRUMENTS.

Section 268 of the Code of Civil Procedure.

(*Title.*)

To
 WHEREAS
 has failed to satisfy a decree passed against _____ on the _____ day of _____ of 18 _____,
 day of _____ 18 _____, in Civil Suit No. _____ for Rs. _____ : it is ordered
 in favour of _____ that the defendant be, and is hereby, prohibited and
 restrained, until the further order of this Court, from receiving from you a certain debt
 alleged now to be due from you to the said defendant, namely, _____ and
 that you, the said _____, be, and you are hereby,
 prohibited and restrained, until the further order of this Court, from making payment of
 the said debt, or any part thereof, to any person whomsoever.
 GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____.

L. S.

Judge.

THE FOURTH SCHEDULE--*continued.*
(Forms: Prohibitory Orders of Attachment in Execution.)

No. 140.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &c.

Section 268 of the Code of Civil Procedure.

(Title.)

To _____ Defendant, and
 to _____, Manager of _____ Company.
 WHEREAS
 has failed to satisfy a decree passed against _____
 on the _____ day of _____ 18 _____, in Civil Suit,
 No. _____ of 18 _____ in favour of _____ for Rs. _____
 : it is ordered that
 you, the defendant, be, and you are hereby, prohibited and restrained, until the further
 order of this Court, from making any transfer of _____
 shares in the aforesaid Company, namely,
 or from receiving payment of any dividends
 thereof; and you _____, the Manager of
 the said Company, are hereby prohibited and restrained from permitting any such transfer
 or making any such payment.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____.

L. S.

Judge.

No. 141.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 274 of the Code of Civil Procedure.

(Title.)

To _____ Defendant
 WHEREAS you have failed to satisfy a decree passed against you on the _____
 day of _____ 18 _____, in Civil Suit, No. _____ of
 18 _____, in favour of _____ for Rs. _____
 : it is ordered that you, the said
 be, and you are hereby, prohibited and restrained, until the further order of this Court,
 from alienating the property specified in the schedule hereunto annexed, by sale, gift, or
 otherwise, and that all persons be, and that they are hereby, prohibited from receiving the
 same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____.

Schedule.

L. S.

Judge.

THE FOURTH SCHEDULE—*continued.*

(*Forms : Prohibitory Order of Attachment ; Order for Payment of Money in the hands of third Party*)

No. 142.

ATTACHMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY
IN THE HANDS OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT.

Sections 272 and 486 of the Code of Civil Procedure

IN THE COURT OF

AT
Civil Suit, No. of 18 .

A. B. of
against
C. D. of

To

SIR,

THE plaintiff having applied under section of the Code of Civil Procedure for an attachment of certain money now in your hands (*here state how the money is supposed to be in the hands of the person addressed, on what account, &c.*). I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,

SIR,

Your most obedient Servant,

(L. S.)

Judge.

Dated the day of 18 .

No. 143.

ORDER FOR PAYMENT TO THE PLAINTIFF, &C., OF MONEY, &C., IN THE HANDS OF
A THIRD PARTY.

Section 277 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No. of 18 .

Miscellaneous, No. of 18 .

A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT AND TO

WHEREAS the following property has been attached in execution of a decree in Civil Suit, No. of 18 , passed on the day of 18 , in favour of for Rs. : it is ordered that the property so attached, consisting of Rs. in money, and Rs. in Currency-notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you, the said , to , and that the said property, so far as may be necessary for the satisfaction of the said decree, shall be sold by you, the Bailiff of the Court, by public auction in the manner prescribed for sale in execution of decrees, and that the money which may be realized by such sale, or a sufficient part thereof to satisfy the

THE FOURTH SCHEDULE—continued.

(Forms : Notice to Attaching Creditor ; Warrant of Sale of Property.)

said decree, shall be paid over to the said

and the remainder, if any, shall be paid to you, the said

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge

No. 144.

NOTICE TO ATTACHING CREDITOR.

Section 278 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No. of 18 .

Miscellaneous, No. of 18 .

A. B. of

against

C. D. of .

To

WHEREAS has made application to this Court
for the removal of attachment on placed
at your instance in execution of the decree in Civil Suit, No. of 18 , this
is to give you notice to appear before this Court on , the
day of , 18 , either in person or by a pleader of the Court
duly instructed, to support your claim, as attaching creditor.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 145.

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY.

Section 287 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No. of 18 .

Miscellaneous, No. of 18 .

A. B. of

against

C. D. of .

TO THE BAILIFF OF THE COURT.

THESE ARE TO COMMAND YOU to sell by auction, after giving

days' previous notice, by affixing the same in this court-house, and after making due

THE FOURTH SCHEDULE—*continued.*

(Forms: Notice to Person in Possession of moveable Property.)

proclamation,^a the

property attached under a warrant from this Court dated the
 day of 18 , in execution of a decree in favour of
 in suit No. of 18 , or so much of the said property
 as shall realize the sum of Rs. , being the of the said decree and
 costs still remaining unsatisfied.

YOU ARE FURTHER COMMANDED to return this warrant on or before the day of
 18 , with an endorsement certifying the manner in which it has been exe-
 cuted, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18 .


 L. S.

Judge.

No 146.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.

Section 300 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No.

of 18 .

A. B. of
 against
 C. D. of

To

WHEREAS
 has been the purchaser at a sale by auction in execution of the decree in the above suit
 of now in your possession, you are
 hereby prohibited from delivering possession of the said
 to any person except the said

GIVEN under my hand and the seal of the Court, this day of 18 .


 L. S.

Judge.

^a This proclamation shall specify the time, the place of sale, the property to be sold, the revenue assessed should the property consist of land paying revenue to Government, and the amount for the recovery of which the sale is ordered, and as fully and accurately as possible the other particulars required by section 287 to be specified.

THE FOURTH SCHEDULE—*continued.*(Forms : *Prohibitory Orders against Payment of Debts or Transfer of Shares.*)

No. 147.

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER
THAN THE PURCHASER.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No,

of 18 .

A. B. of
against
C. D. of

To

and to

WHEREAS

has become the purchaser at a public sale in execution of the decree in the above suit
of certain debt
due from you to you , that is to say, it is ordered that you be, and you are hereby, prohi-
bited from receiving, and you from making payment of, the said debt to
any person or persons except the said

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 148.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.

Section 301 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No.

of 18 .

A. B. of
against
C. D. of

To

and

Manager of

Company.

WHEREAS has become the purchaser at a public sale in exe-
cution of the decree in the above suit of certain shares in the above Company, that is to say
of
standing in the name of you , it is ordered
that you be, and you are hereby, prohibitedfrom making any transfer of the said shares to any person except the said
the purchaser aforesaid, or from receiving any dividends thereon; and you
, Manager of the said Company, from per-
mitting any such transfer or making any such payment to any person except the said, the purchaser aforesaid.
GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

THE FOURTH SCHEDULE—*continued*.

(Forms: Order for Delivery of Land; Authority to Collector to stay Public Sale of Land.)

No. 151.

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.

Section 318 of the Code of Civil Procedure.

IN THE COURT OF AT .

Civil Suit, No. of 18 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS

has become the certified purchaser of
at a sale in execution of the decree in Civil Suit,
No. of 18 ; and whereas such land is in the possession of
, you are hereby ordered to put the said
the certified purchaser, as aforesaid, into possession of the said
, and if need be, to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 18 .


 L. S.

Judge.

No. 152.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND.

Section 326 of the Code of Civil Procedure.

IN THE COURT OF AT .

Civil Suit, No. of 18 .

A. B. of

against

C. D. of

To

Collector of

SIR,

In answer to your communication No. , dated , repre-
senting that the sale in execution of the decree in this suit of
and lying within your district, paying revenue to Government, is objectionable, I
have the honour to inform you that you are authorized to make provision for the satisfac-
tion of the said decree in the manner recommended by you instead of proceeding to a public
sale of

I have the honour to be,

SIR,

Your obedient Servant,


 L. S.

Judge.

THE FOURTH SCHEDULE— *continued.*

(Forms : Order for Committal of Person resisting Execution ; Warrant of Arrest in Execution.)

No. 153.

ORDER FOR COMMITTAL FOR RESISTING, &C., EXECUTION OF DECREE FOR LAND.

Section 329 of the Code of Civil Procedure.

(Title)

To

WHEREAS it appears to the Court that
has without just cause resisted [*or* obstructed] the execution of the decree of the Court
passed against on the day of 18, in Civil
Suit, No. of 18, whereby certain land or immoveable property was adjudged
to , it is ordered that the said be committed to
custody for a period of days.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 154.

WARRANT OF ARREST IN EXECUTION.

Section 337 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No. of 18 .
Miscellaneous, No. of 18 .
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS

was adjudged by a decree of the Court, in
No. of 18, dated

| | | | | | | |
|-----------|---|---|---|---|--|--|
| Principal | . | . | . | . | | |
| Interest | . | . | . | . | | |
| Costs | . | . | . | . | | |
| Execution | . | . | . | . | | |
| Total | . | . | . | . | | |

18, to pay to the plaintiff
the sum of Rs. as noted in the
margin, and whereas the said sum of
Rs. has not been paid to the
said plaintiff in satisfaction of the
said decree, these are to command you
to arrest the said defendant, and
unless the said defendant shall pay to
you the said sum of Rs.
together with Rs. for the costs

of executing this process, to bring the
said defendant before the Court with
all convenient speed. You are further commanded to return this warrant on or before the
day of 18, with an endorsement certifying the day and manner in
which it has been executed, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

THE FOURTH SCHEDULE—*continued.*

(Forms: Notice of Payment into Court; Commissions.)

No. 155.

NOTICE OF PAYMENT INTO COURT.
Section 377 of the Code of Civil Procedure.

IN THE COURT OF

B. No.

A. B. v. C. D.

18 .

TAKE notice that the defendant has paid into Court Rs. , and says that that sum is enough to satisfy the plaintiff's claim [or the plaintiff's claim for, &c.].

To Mr. X. Z.,
the Plaintiff's Pleader

Z.,
Defendant's Pleader.

No. 156.

COMMISSION TO EXAMINE ABSENT WITNESSES.
Section 386 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit No. of 18 . AT
A. B. of
against
C. D. of

To

WHEREAS the evidence of , is required by the
in the above suit; and whereas you are requested to take the examination
on interrogatories [or viva voce] of such witnesses and you are hereby
appointed a Commissioner for that purpose, and you are further requested to make return
of such examination so soon as it may be taken [process to require the attendance of the
witness will be issued by this Court on your application].^a

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 157.

COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS.
Sections 392 and 394 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No. of 18 . AT
A. B. of
against
C. D. of

To

WHEREAS it is deemed requisite, for the purposes of this suit, that a commission for
appointed Commissioner for the purpose of should be issued; you are hereby
[process to

^a Not necessary where the commission goes to another Court.

THE FOURTH SCHEDULE—*continued.*

(*Forms: Warrant of Arrest before Judgment; Order for Committal.*)

compel the attendance before you of any witnesses, or for the production of any documents, which you may desire to examine or inspect, will be issued by this Court on your application.]^a

A sum of Rs. _____, being your fee in the above, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 .

L. S.

Judge.

No. 158.

WARRANT OF ARREST BEFORE JUDGMENT.

Section 478 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No. _____ of 18 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS _____, the plaintiff in the above suit, has proved to the satisfaction of the Court that there is probable cause for believing that the defendant _____ is about to _____, these are to command you to take _____ the said _____ into custody, and to bring _____ before the Court, in order that he may show cause why he should not furnish security to the amount of rupees _____ for personal appearance before the Court, until such time as the said suit shall be fully and finally disposed of, and until execution or satisfaction of any decree that may be passed against _____ in the suit.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 .

L. S.

Judge.

No. 159.

ORDER FOR COMMITTAL.

Section 481 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No. _____ of 18 .

A. B. of

against

C. D. of

To

WHEREAS _____, plaintiff in this suit, has made application to the Court that security be taken for the appearance of the _____

^a Not necessary where the commission goes to another Court.

THE FOURTH SCHEDULE—*continued.*(Forms : *Order of Attachment before Judgment.*)

defendant to answer any judgment
 that may be passed against in the suit; and
 whereas the Court has called upon the defendant to furnish
 such security, or to offer a sufficient deposit in lieu of security, which
 has failed to do; it is ordered that the said defendant
 be committed to custody until the decision of the suit; or if judgment be given
 against , until the execution of the decree.

GIVEN under my hand and the seal of the Court, this day of 18



Judge

No. 160.

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT
 OF DECREE.

Section 484 of the Code of Civil Procedure.

IN THE COURT OF AT .

Civil Suit, No. of 18 .

A. B. of

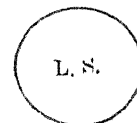
against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS has proved to the satisfaction
 of the Court that the defendant in the above suit , these are to
 command you to call upon the said defendant on or
 before the day of either to furnish security
 for the sum of rupees to produce and place at the disposal of this
 Court when required or the
 value thereof, or such portion of the value as may be sufficient to fulfil any decree that may
 be passed against , or to appear and show cause why
 said should not furnish security; and you are further ordered to attach the
 and keep the same under safe and secure custody until the further order
 of the Court, and in what manner you shall have executed this warrant make appear to the
 Court immediately after the execution hereof, and have you here then this warrant.

GIVEN under my hand and the seal of the Court, this day of 18 .



Judge.

THE FOURTH SCHEDULE—*continued.*

(Forms : Orders of Attachment before Judgment.)

No. 161.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 485 of the Code of Civil Procedure.

IN THE COURT OF

CIVIL SUIT, No.

AT

of 18 .

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS , the plaintiff in this suit, has applied to the Court to call upon , the defendant, to furnish security to fulfil any decree that may be passed against in the suit, and whereas the Court has called upon the said to do ; these are to command you to attach the property of the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appear to this Court immediately after the execution hereof, and have you here then this warrant.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 162.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVEABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED, SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSONS TO THE IMMEDIATE POSSESSION THEREOF.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18 .

A. B. of

against

C. D. of

To

Defendant.

It is ordered that you, the said , be, and you are hereby prohibited and restrained until the further order of this Court from receiving from the following property in the possession of the said that is to say , to which the defendant is entitled, subject to any claim of the said , and the said is hereby prohibited

THE FOURTH SCHEDULE—*continued.**(Forms: Orders of Attachment before Judgment.)*

and restrained, until the further order of this Court, from delivering the said property to any persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 163.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVEABLE PROPERTY.

Section 436 of the Code of Civil Procedure.

IN THE COURT OF AT .
Civil Suit, No. of 18 .

A. B. of
against
C. D. of

To

It is ordered that you, the said , be, and you are hereby, prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift or otherwise, and that all persons be, and that they are hereby, prohibited from receiving the same by purchase, gift or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18 .
Schedule.

L. S.

Judge.

No. 164.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY IN THE HANDS OF OTHER PERSONS, OR OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS.

Section 436 of the Code of Civil Procedure.

IN THE COURT OF AT .
Civil Suit, No. of 18 .

A. B. of
against
C. D. of

To

It is ordered that the defendant be, and he is hereby, prohibited and restrained, until the further order of this Court, from receiving from the [money now in hands

THE FOURTH SCHEDULE—continued.

(Forms: Orders of Attachment before Judgment; Temporary Injunctions.)

belonging to the said defendant or debts, as the case may be, describing them] and that the said be, and hereby prohibited and restrained, until the further order of this Court, from making payment of the said [money, &c.], or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 165.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &c.

Section 486 of the Code of Civil Procedure

IN THE COURT OF AT .
Civil Suit, No. of 18 .

A. B. of
against
C. D. of

To Defendant and to Company.
Manager of
It is ordered that

, the defendant, be, and hereby, prohibited and restrained, until the further order of the Court, from making any transfer of shares being in the aforesaid Company, or from receiving payment of any dividends thereof, and you Manager of the said Company, are hereby prohibited and restrained from permitting any such transfer, or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 166.

TEMPORARY INJUNCTIONS.

Section 492 of the Code of Civil Procedure.

UPON motion made unto this Court by , Pleader of [or Counsel for] the plaintiff, A. B., and upon reading the petition of the said plaintiff in this matter filed

THE FOURTH SCHEDULE—*continued.**(Forms: Temporary Injunctions.)*

[this day] [or the plaint filed in this cause on the day of , or
the written statement of the said plaintiff filed on the day of ,
] and upon hearing the evidence of and
in support thereof, [*if after notice and defendant not appearing*
add, and also the evidence of as to service of notice
of this motion upon the defendant, *C. D.*]. This Court doth order that an injunction be
awarded to restrain the defendant, *C. D.*, his servants, workmen and agents from pulling
down, or suffering to be pulled down, the house in the plaint in the said suit of the plaintiff
mentioned [or in the written statement, or petition, of the plaintiff and evidence at the hear-
ing of this motion mentioned] being No. 9, Oilmongers Street, Hindupu, in the Taluq of
and from selling the materials, whereof the said house is composed, until
the hearing of this cause or until the further order of this Court.

Dated this day of 18 .

Civil Judge.

[*Where the injunction is sought to restrain the negotiation of a note or bill, the ordering part of the order may run thus*]:—
restrain the defendants and from
parting with out of the custody of them or any of them or endorsing, assigning or negotiat-
ing the promissory note [or bill of exchange] in question, dated on or about the
 , &c., mentioned in the plaintiff's plaint [or petition] and the
evidence heard at this motion until the hearing of this cause, or until the further order of
this Court.

[*In Copyright cases*]
defendant, *C. D.*, to restrain the
 his servants, agents or workmen from printing, publishing, or
vending a book, called , or any part thereof,
until the, &c.

[*Where part only of a book is to be restrained*]
the defendant, *C. D.*, his servants, agents or workmen from printing, publishing, selling,
or otherwise disposing of such parts of the book in the plaint [or petition and evidence, &c.,]
mentioned to have been published by the defendant as hereinafter specified, namely, that
part of the said book which is entitled and also that
part which is entitled [or which is contained in
page to page both inclusive]
until the , &c.

[*In Patent cases*]
C. D., his agents, servants and workmen, from making or vending any perforated bricks (or
as the case may be) upon the principle of the inventions in the plaintiff's plaint [or petition,
&c., or written statement, &c.,] mentioned, belonging to the plaintiffs, or either of them,
during the remainder of the respective terms of the patents in the plaintiff's plaint [or as
the case may be] mentioned, and from counterfeiting, imitating or resembling the same
inventions, or either of them, or making any addition thereto, or subtraction therefrom, until
the hearing, &c.

[*In cases of Trade-marks*]
defendant, *C. D.*, his servants, agents or workmen, from selling, or exposing for sale, or
procuring to be sold, any composition or blacking [or, as the case may be] described as or
purporting to be blacking manufactured by the plaintiff, *A. B.*, in bottles having affixed
thereto such labels as in the plaintiff's plaint [or petition, &c.,] mentioned, or any other labels
so contrived or expressed as, by colourable imitation or otherwise, to represent the composition
or blacking sold by the defendant to be the same as the composition or blacking manufac-
tured and sold by the plaintiff, *A. B.*, and from using trade-cards so contrived or expressed
as to represent that any composition or blacking sold or proposed to be sold by the defendant
is the same as the composition or blacking manufactured or sold by the plaintiff, *A. B.*,
until the, &c.

[*To restrain a partner from in any way interfering in the business*]
to restrain the defendant, *C. D.*, his agents and servants, from
entering into any contract, and from accepting, drawing, endorsing or negotiating any bill
of exchange, note or written security, in the name of the partnership-firm of *B. & D.*

THE FOURTH SCHEDULE—*continued.*

(Forms: Notice of Application for Injunction; Appointment of Receiver.)

and from contracting any debt, buying and selling any goods, and from making or entering into any verbal or written promise, agreement or undertaking, and from doing or causing to be done, any act, in the name or on the credit of the said partnership-firm of *B. & D.*, or whereby the said partnership-firm can or may in any manner become or be made liable to or for the payment of any sum of money, or for the performance of any contract, promise or undertaking, until the, &c.

No. 167.

NOTICE OF APPLICATION FOR INJUNCTION.

Section 494 of the Code of Civil Procedure.

IN THE COURT OF

AT

A. B. of

against

C. D. of

TAKE notice that I, *A. B.*, intend to apply at the sitting of the Court at
 aforesaid, on the _____ day of _____ for an injunction
 to restrain *C. D.* from further prosecuting a suit which he has commenced against me in
 _____, to recover damages for the breach of the contract for the specific
 performance of which this suit was commenced [or to restrain him from receiving and giving
 discharges for any of the debts due to the partnership in the matter of the partnership
 between us for the winding-up of which the suit was commenced, or from digging the turf
 from the land which was agreed to be sold by him to me by the agreement, the specific per-
 formance of which this suit is commenced to enforce, or, as the case may be].

Dated this day of 18 :
To C. D.

A. B.

[*N. B.—Where the injunction is to be applied for against a party whose name and address do not appear upon any proceeding already filed in the suit, such name and address must be stated in full to enable the proper officer to serve the notice.*]

No. 168.

APPOINTMENT OF A RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No. _____ of 18____

of 18

A. B. of

against

C. D. of

To

WHEREAS has been attached in execution of a decree passed in the above suit on the day of 18 , in favour of : you are hereby (subject to your giving security to the satisfaction of the Registrar) appointed Receiver of the said property under section 503 of the Code of Civil Procedure, with full powers under the provisions of that section.

You are required to render a due and proper account of your receipts and disbursements in respect of the said property on . You will be entitled to remuneration

THE FOURTH SCHEDULE—*continued.*(Forms : *Bond to be given by Receiver ; Order of Reference to Arbitration.*)

at the rate of _____ per cent. upon your receipts under the authority of this appointment.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18____

L. S.

Judge.

No. 169.

BOND TO BE GIVEN BY RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF _____ AT _____
Civil Suit, No. _____ of _____*A. B.* of

against

C. D. of

KNOW all men by these presents, that we, *I. J.* of &c., and *K. L.* of &c., and *M. N.* of &c., are jointly and severally bound to *G. H.*, Registrar of the Court of _____ in Rs. _____, to be paid to the said *G. H.* or his attorney, executors, administrators or assigns. For which payment to be made we bind ourselves, and each of us in the whole, our and each of our heirs, executors and administrators, jointly and severally by these presents.

Dated this _____ day of _____ 18____

And whereas a plaint has been filed in this Court by *A. B.* against *C. D.* for the purpose of [*here insert object of suit*].

And whereas the said *I. J.* has been appointed, by order of the above-mentioned Court, to receive the rents and profits of the immoveable property, and to get in the outstanding moveable property of *O. P.*, the testator in the said plaint named.

Now the condition of this obligation is such, that if the above-bounden *I. J.* shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the immoveable property, and in respect of the moveable property of the said *O. P.* [*or, as may be*] at such periods as the said Court shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court hath directed or shall hereafter direct, then this obligation shall be void, otherwise it shall remain in full force.

I. J.
K. L.
M. N.

Signed and delivered by the above-bounden in the presence of

NOTE.—*If deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.*

No. 170.

ORDER OF REFERENCE TO ARBITRATION UNDER AGREEMENT OF PARTIES.

Section 508 of the Code of Civil Procedure.

(Title.)

To

WHEREAS the above-mentioned plaintiff and defendant have agreed to refer the matters in difference between them in the above suit to your arbitration and award, you are hereby

THE FOURTH SCHEDULE—*continued.**(Forms : Orders of Reference to Arbitration.)*

appointed _____ accordingly to determine all the said matters in difference between the parties, and with power, by consent of the parties, to determine which party shall pay the costs of this reference.

You are required to deliver your award in writing to this Court on or before the _____ day of _____ 18 __, or such other day as this Court may further
ix.

Process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on your application, and you are empowered to administer to such witnesses oath or affirmation.

A sum of Rs. _____, being your fee in the above suit, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 __.



L. S.

Judge.

No. 171.

ORDER OF REFERENCE TO ARBITRATION BY COURT, WITH CONSENT.

Section 508 of the Code of Civil Procedure.

(Title.)

UPON reading a petition of the plaintiff, filed this day, and on the consent of _____ for the defendant, and upon hearing _____ for the plaintiff and _____ for the defendant, it is ordered, by and with the consent of all the parties, that all matters in difference in this suit, including all dealings and transactions between all parties, be referred to the final determination of _____, who

is to make his award in writing and submit the same to this Court, together with all proceedings, depositions and exhibits in this suit, within one month from the date hereof. And it is ordered further, by and with the like consent, that the said arbitrator is to be at liberty to examine the parties and their witnesses upon oath or affirmation, which he is empowered to administer, and that the said arbitrator shall have all such powers or authorities as are vested in arbitrators under the Code of Civil Procedure, including therein power to call for all books of account that he may consider necessary. And it is further ordered by and with the like consent, that the costs of this suit, together with the costs of reference to arbitration, up to and including the award of the said arbitrator, and the enforcement thereof, do abide the result of the finding of the said arbitrator. And it is further ordered, by and with the like consent, that the said arbitrator be at liberty to appoint a competent accountant to assist him in the investigation of the several matters referred to him as aforesaid, and that the remuneration of such accountant and other charges attending thereto be in the discretion of the said arbitrator.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 __.



L. S.

Judge.

THE FOURTH SCHEDULE—*continued*.

(Forms : Summons in Summary Suit on Negotiable Instrument ; Memorandum of Appeal.)

No. 172.

SUMMONS IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT

Section 532 of the Code of Civil Procedure.

No. OF SUIT.

IN THE COURT OF

AT

, Plaintiff.

, Defendant.

To

[Here enter the defendant's name, description and address.]

WHEREAS [here enter the plaintiff's name, description and address] has instituted a suit in this Court against you under Chapter XXXIX of the Code of Civil Procedure for Rs. principal and interest [or Rs. balance of principal and interest] due to him as the payee [or endorsee] of a bill of exchange [or hundi or promissory note] of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within ten days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such ten days to obtain a decree for any sum not exceeding the sum of Rs. [here state the sum claimed] and the sum of Rs. for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[Here copy the bill of exchange, hundi or promissory note, and all endorsements upon it.]

No. 173.

MEMORANDUM OF APPEAL.

Section 541 of the Code of Civil Procedure.

MEMORANDUM OF APPEAL.

(Name, &c., as in Register.) Plaintiff—Appellant.

(Name, &c., as in Register.) Defendant—Respondent.

[Name of Appellant] [plaintiff or defendant] above-named appeals to the High Court at [or District Court at] , as the case may be, against the decree of in the above suit dated the day of , for the following reasons, namely [here state the grounds of objection].

THE FOURTH SCHEDULE—*continued.*

(Forms · Register of Appeals.)

No. 174.

REGISTER OF APPEALS.

Section 548 of the Code of Civil Procedure.

COURT (or HIGH COURT) AT

REGISTER OF APPEALS FROM DECREES in the year 18

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--------------------------|--|----------------|--|--------------------|--|-------|-------------|--|--------------|-----------------------|--------------------|--|-------------------|-------------|----------------------------|--|--------------|--|---------------------|--|----------------------|--|------------|--|-------------|--|-------|--|---------------------------------------|--|-----------------------|--|
| Date of Memo- randum. | | No. of Appeal. | | APPELLANT. | | | RESPONDENT. | | | DECREE APPEALED FROM. | | | | APPEARANCE. | | | JUDGMENT. | | | | | | | | | | | | | | | |
| Name. | | Description. | | Place of abode. | | Name. | | | Description. | | Place of abode. | | Of what Court. | | No. of origi- nal Suit. | | Particulars. | | Amount or Value. | | Day for ap- pear. | | Appellant. | | Respondent. | | Date. | | Confirmed, reversed or altered. | | For what or Amount | |

THE FOURTH SCHEDULE—*continued.*

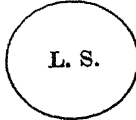
(Forms: Notice to Respondent; Decree on Appeal.)

No. 175.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.
Section 553 of the Code of Civil Procedure.

IN THE COURT OF _____ AT _____
 , Appellant, v. _____, Respondent.
 APPEAL from the _____ of the Court of _____
 dated the _____ day of _____ 18 _____.
 Respondent.

To
 TAKE notice that an appeal from the decree of
 in this case has been presented by
 and registered in this Court, and that the
 day of _____ 18 _____ has been fixed by this Court for the hearing of this appeal.
 If no appearance is made on your behalf by yourself, your pleader, or by some one by
 law authorized to act for you in this appeal, it will be heard and decided *ex parte* in your
 absence.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____.


Judge.

[NOTE.—If a stay of execution has been ordered, intimation should be given of the fact
 on this notice.]

No. 176.

DECREE ON APPEAL.

Section 579 of the Code of Civil Procedure.

IN THE COURT OF _____ AT _____
 , Appellant, v. _____, Respondent.
 APPEAL from the _____ of the Court of _____ dated the
 day of _____ 18 _____.
 Memorandum of Appeal.

_____, Plaintiff.
 _____, Defendant.
 Plaintiff [or defendant] above-named appeals to the _____ Court at
 against the decree of _____ in the above suit, dated the
 day of _____ 18 _____, for the following reasons, namely;
 [here state the reasons]

This appeal coming on for hearing on the _____ day of _____ 18 _____.
 before _____, in the presence of _____, for the Respondent, it is ordered—
 for the Appellant, and of _____ for the Respondent, it is ordered—
 [here state the relief granted].

The costs of this appeal, amounting to _____, are to be paid by _____.
 The costs of the original suit are to be paid by _____.
 GIVEN under my hand, this _____ day of _____.



L. S.

Judge.

THE FOURTH SCHEDULE—*continued*.

(Forms: Register of Appeals from Appellate Decrees.)

No. 177.

REGISTER OF APPEALS FROM APPELLATE DECREES.

Section 587 of the Code of Civil Procedure.

HIGH COURT AT

REGISTER OF APPEALS FROM APPELLATE DECREES.

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--------------------------|--|----------------|--|--------------------|--|-------|-------------|--|--------------|-----------------------|--|--------------------|--|-------------|--------------------------------------|--|-----------|------------|--|--|-------------|--|--|-------|--|--|---------------------------------------|--|--|------------------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Date of Memo- randum. | | No. of Appeal. | | APPELLANT. | | | RESPONDENT. | | | DECREE APPEALED FROM. | | | | APPEARANCE. | | | JUDGMENT. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Name. | | Description. | | Place of abode. | | Name. | | | Description. | | | Place of abode. | | | Day for par- ties to ap- pear. | | | Appellant. | | | Respondent. | | | Date. | | | Confirmed, reversed or altered. | | | For what or Amount. | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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THE FOURTH SCHEDULE—*concluded.*

(Forms : Notice to show Cause against Review of Judgment ; Notice of Change of Pleader ; Memorandum at foot of Process of Court.)

No. 178.

NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED.

Section 626 of the Code of Civil Procedure.

IN THE COURT OF

AT

, Plaintiff, v.

, Defendant.

To

TAKE notice that _____ has applied to this Court for a review of its judgment passed on the _____ day of _____ 18____ in the above case. The _____ day of _____ 18____ is fixed for you to show cause why the Court should not grant a review of its judgment in this case.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18____.

L. S.

Judge.

No. 179.

NOTICE OF CHANGE OF PLEADER.

IN THE COURT OF

AT

A. B. of
against
C. D. of

TO THE REGISTRAR OF THE COURT.

TAKE notice that I, A. B. [or C. D.], have hitherto employed as my pleader G. H. of _____ in the above-mentioned cause, but that I have ceased to employ him, and that my present pleader is J. K. of _____

A. B. [or C. D.]

No. 180.

MEMORANDUM TO BE PLACED AT FOOT OF EVERY SUMMONS, NOTICE, DECREE OR ORDER OF COURT, OR ANY OTHER PROCESS OF THE COURT.

Hours of attendance at the office of the Registrar [place of office] from ten till four except on [here insert the day on which the office will be closed], when the office will be closed at one.

THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
Commencement.
2. Repeal of enactments.
References in previous Acts.
3. Amendment of Acts.
4. "Small Cause Court" defined.

CHAPTER II.

CONSTITUTION AND OFFICERS OF THE COURT.

5. Courts of Small Causes established.
6. Court to be deemed under superintendence, &c., of High Court.
7. Appointment, suspension and removal of Judges.
8. Rank and precedence of Judges.
9. Power to make rules.
10. Chief Judge to distribute business of Court.
11. Procedure in case of difference of opinion.
12. Seal to be used.
13. Appointment of Registrar and ministerial officers.
Powers and duties of such officers.
14. Registrar may be invested with powers of a Judge in suits not exceeding twenty rupees.
15. Judge or other officer not to practice or trade.

CHAPTER III.

LAW ADMINISTERED BY THE COURT.

16. Questions arising in suits, &c., under Act to be decided according to law administered by High Court.
17. Local limits of jurisdiction of Court.
18. Suits in which Court has jurisdiction.
19. Suits in which Court has no jurisdiction.

CHAPTER IV.

JURISDICTION IN RESPECT OF SUITS.

SECTIONS.

20. Court may by consent try suits beyond pecuniary limits of jurisdiction.
 21. Suits by and against officers of Court.
 22. Costs when plaintiff sues in High Court in other cases cognizable by Small Cause Court.
-

CHAPTER V.

PROCEDURE IN SUITS.

23. Portions of Civil Procedure Code extending to Court
 24. No written statement except in cases of set-off.
 25. Return of documents admitted in evidence.
 26. Compensation payable by plaintiff to defendant in certain cases.
 27. Decree-holder to accompany officer executing warrant.
 28. Things attached to immoveable property and removeable by tenant to be deemed moveable in execution.
 29. Discharge of judgment-debtor on sufficient security.
 30. Court may in certain cases suspend execution of decree.
 31. Execution of decree of Small Cause Court by other Courts.
Procedure when decree transferred.
 32. Minors may sue in certain cases as if of full age.
 33. Power to delegate non-judicial duties.
 34. Registrar to hear and determine suits like a Judge.
Proviso.
 35. Registrar may execute all decrees with the same powers as a Judge.
 36. Decrees and orders of Registrar to be subject to new trial as if made by a Judge.
-

CHAPTER VI.

NEW TRIALS AND RE-HEARING.

37. Judgments and orders of Court final.
Power to order new trial in Small Cause Court.
38. Application for re-hearing in High Court.
39. Procedure at re-hearing.
40. Execution of decree of High Court.
41. Summons against person occupying property without leave.
42. Service of summons.
43. Order for possession.
44. Such order to justify bailiff entering on property and giving possession.
Bar to proceedings against Judge or officer for issuing, &c., order or summons.
45. Applicant if entitled to possession not to be deemed trespasser for any error in proceedings.
Occupant may sue for compensation.

CHAPTER VII.

RECOVERY OF POSSESSION OF IMMOVEABLE PROPERTY.

SECTIONS.

46. Liability of applicant obtaining order when not entitled.
Application for order in such case an act of trespass.
47. Stay of proceedings on occupant giving security to bring suit against applicant.
48. Proceedings to be regulated by Code of Civil Procedure.
49. Recovery of possession no bar to suit to try title.

CHAPTER VIII.

DISTRESSES.

50. Local extent of chapter.
Saving of certain rents.
51. Appointment of bailiffs and appraisers.
52. Security to be given by appointees.
53. Application for distress-warrant.
54. Issue of distress-warrant.
55. Time for distress.
56. What places bailiff may force open.
57. Property which may be seized.
58. Impounding distress.
59. Inventory.
Notice of intended appraisalment and sale.
Copies of inventory and notice to be filed.
60. Application to discharge or suspend warrant.
61. Claim to goods distrained made by a stranger.
62. Power to award compensation to debtor or claimant.
63. Power to transfer to High Court cases involving more than Rs. 1,000.
64. Appraisalment.
Notice of sale.
65. Sale.
Application of proceeds.
66. Costs of distresses.
67. Account of costs and proceeds.
68. Bar of distresses except under this chapter.
Penalty for making illegal distresses.

CHAPTER IX.

REFERENCES TO HIGH COURT.

69. Reference when compulsory.
70. Security to be furnished on such reference by party against whom contingent judgment given.
If no such security given, party to be deemed to have submitted to judgment.

CHAPTER X.

FEES AND COSTS.

SECTIONS.

71. Institution-fee.
 72. Fees for processes.
 73. Repayment of half fees on settlement before hearing.
 74. Fees and costs of poor persons.
 75. Power to vary fees.
 76. Expense of employing legal practitioners.
 77. Sections 3, 5 and 25 of Court-fees Act, 1870, saved.
-

CHAPTER XI.

MISCONDUCT OF INFERIOR MINISTERIAL OFFICERS.

78. Power to fine officers.
 79. Default of bailiff or other officer in execution of order or warrant.
 80. Extortion or default of officers.
 81. Court empowered to summon witnesses, &c.
 82. Enforcement of order.
-

CHAPTER XII.

CONTEMPT OF COURT.

83. Procedure of Court in certain cases of contempt.
 84. Record in such cases.
 85. Procedure where Court considers that case should not be dealt with under section 83.
 86. Discharge of offender on submission or apology.
 87. Imprisonment or committal of person refusing to answer or produce document.
 88. Appeal from orders under sections 83 and 87.
-

CHAPTER XIII.

MISCELLANEOUS.

89. Persons by whom process may be served.
 90. Registers and returns.
 91. Court to furnish records, &c., called for by Local Government or High Court.
 92. Holidays and vacations.
 93. Certain persons exempt from arrest by Court.
 94. No suit to lie upon decree of Court.
 95. Place of imprisonment.
- £

SECTIONS.

96. Tender in suit for anything done under Act.
97. Limitation of prosecutions.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—PORTIONS OF CIVIL PROCEDURE CODE
EXTENDING TO COURT.

THE THIRD SCHEDULE.—FORMS OF AFFIDAVIT, WARRANT, INVEN-
TORY, &c.

THE FOURTH SCHEDULE.—FEES FOR SUMMONSES AND OTHER
PROCESSES.

ACT No. XV OF 1882.

Received the Governor General's assent on the 17th March, 1882.

An Act to consolidate and amend the law relating to the
Courts of Small Causes established in the Presidency-towns.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts of Small Causes established in the towns of Calcutta, Madras and Bombay ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.
Commence-
ment.

1. This Act may be called “ The Presidency Small Cause Courts Act, 1882 ” ; and it shall come into force on the first day of July, 1882.

But nothing herein contained shall affect the provisions of the Army Act, 1881, section one hundred and fifty-one, or the rights or liabilities of any person under any decree passed before that day. 44 & 45 Vic.,
cap. 58.

Repeal of
enactments.

2. On and from the said day the enactments specified in the first schedule hereto annexed shall be repealed to the extent mentioned therein.

But all Courts constituted, appointments made and securities given under any of the said enactments shall, so far as may be, be deemed to have been respectively constituted, made and given under this Act.

References in
previous
Acts.

All references to any enactment hereby repealed made in Acts passed prior to the said day shall be read, so far as may be practicable, as if made to this Act or the corresponding provisions hereof.

Chapter II.—*Constitution and Officers of the Court.* Secs. 3-7.)III of
50.

3. In Act No. XXIII of 1850 (*for securing the Land-revenue of Calcutta*), Amendment of Acts.
section 3, for the word and figures "Act VII, 1847," the words and figures "the Presidency Small Cause Courts Act, 1882, Chapter VIII," shall be substituted; the words "as provided by the said Act" shall be repealed; and for each of the expressions "a Commissioner of the Court for recovery of small debts referred to in the said Act" and "the said Commissioners" the words "the Judges of the Court of Small Causes at Calcutta" shall be substituted.

V of 1882.

In the Code of Civil Procedure, section 8, after the word and figures "Chapter XXXIX" the words and figures "and by the Presidency Small Cause Courts Act, 1882," shall be inserted.

4. In this Act, "the Small Cause Court" means the Court of Small Causes constituted under this Act in the town of Calcutta, Madras or Bombay, as the case may be. "Small Cause Court" defined.

CHAPTER II.

CONSTITUTION AND OFFICERS OF THE COURT.

5. There shall be in each of the towns of Calcutta, Madras and Bombay Courts of Small Causes established.
a Court to be called the Court of Small Causes of Calcutta, Madras or Bombay, as the case may be.

IV of 1882.

4 & 25 Vic,
ap. 104.

6. The Small Cause Court shall be deemed to be a Court subject to the Court to be deemed under superintendence, &c, of High Court.
superintendence of the High Court of Judicature at Fort William, Madras or Bombay, as the case may be, within the meaning of the Letters Patent respectively dated the 28th day of December, 1865, for such High Courts, and within the meaning of the Code of Civil Procedure; and the High Court shall have, in respect of the Small Cause Court, the same powers as it has under the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, in respect of Courts subject to its appellate jurisdiction.

7. Subject to the control of the Governor General in Council, the Local Government may, from time to time, by notification in the official Gazette, appoint a person to be Chief Judge, and so many other persons as it thinks fit to be Judges, of the Small Cause Court: Provided that not less than one-third of the persons so appointed, including the Chief Judge, shall be advocates of one of the said High Courts. Appointment, suspension and removal of Judges.

The Local Government may, by a like notification, suspend, and, with the previous sanction of the Governor General in Council, remove, any Judge so appointed.

(Chapter II.—Constitution and Officers of the Court. Secs. 8-13.)

All barristers who, when this Act comes into force, are, or are acting as Judges of the Small Cause Court shall, for the purposes of this section, be deemed to be advocates of a High Court.

Rank and
precedence
of Judges.

8. The Chief Judge shall be the first of the Judges in rank and precedence.

The other Judges shall have rank and precedence as the Local Government may, from time to time, direct.

Power to
make rules.

9. Except as otherwise provided by this or any other law for the time being in force, the Small Cause Court may, with the previous sanction of the High Court, make rules to provide, in such manner as it thinks fit, for all matters not specially provided for by this Act, and for the exercise, by one or more of its Judges, of any powers conferred on the Small Cause Court by this Act or by any other law for the time being in force.

Chief Judge
to distribute
business of
Court.

10. Subject to such rules, the Chief Judge may, from time to time, make such arrangements as he thinks fit for the distribution of the business of the Court among the various Judges thereof.

Procedure
in case of
difference of
opinion.

11. Save as hereinafter otherwise provided, when two or more of the Judges sitting together differ on any question the opinion of the majority shall prevail; and if the Court is equally divided, the Chief Judge, if he is one of the Judges so differing, or, in his absence, the Judge first in rank and precedence of the Judges so differing, shall have the casting voice.

Seal to be
used.

12. The Small Cause Court shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

Appointment
of Registrar
and ministerial
officers.

13. The Local Government may, from time to time, appoint an officer to be called the Registrar of the Court and to be the chief ministerial officer of the Court;

and the Chief Judge may, from time to time, subject to the control of the Local Government, appoint as many clerks, bailiffs and other ministerial officers as may be necessary for the administration of justice by the Court, and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.

Powers and
duties of such
officers.

The Registrar and other officers so appointed shall exercise such powers, and discharge such duties, of a ministerial nature, as the Chief Judge may, from time to time, by rule, direct.

The Chief Judge may suspend or remove any Registrar or other officer so appointed; but the removal of any Registrar or officer drawing a monthly salary of one hundred rupees or upwards shall be subject to the orders of the Local Government.

(Chapter III.—Law administered by the Court. Chapter IV.—Jurisdiction in respect of Suits. Secs. 14-17.)

14. The Local Government may invest the Registrar with the powers of a Judge under this Act for the trial of suits in which the amount or value of the subject-matter does not exceed twenty rupees. And, subject to the orders of the Chief Judge, any Judge of the Small Cause Court may, whenever he thinks fit, transfer from his own file to the file of the Registrar any suit which the latter is competent to try.

Registrar may be invested with powers of a Judge in suits not exceeding twenty rupees.

15. No Judge or other officer appointed under this Act shall, during his continuance as such Judge or officer, either by himself or as a partner of any other person, practice or act, either directly or indirectly, as an advocate, attorney, vakil or other legal practitioner, or be concerned, either on his own account or for any other person, or as the partner of any other person, in any trade or profession.

Judge or other officer not to practice or trade.

Any such Judge or officer so practising, acting or concerned shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

Nothing herein contained shall be deemed to prohibit any such Judge or officer from being a member of any company incorporated or registered under Royal Charter, Letters Patent, Act of Parliament or Act of any British Indian legislature.

CHAPTER III.

LAW ADMINISTERED BY THE COURT.

16. All questions, other than questions relating to procedure or practice which arise in suits or other proceedings under this Act in the Small Cause Court, shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Questions arising in suits, &c., under Act to be decided according to law administered by High Court.

CHAPTER IV.

JURISDICTION IN RESPECT OF SUITS.

17. The local limits of the jurisdiction of each of the Small Cause Courts shall be the local limits for the time being of the ordinary original civil jurisdiction of the High Court.

Local limits of jurisdiction of Court.

(Chapter IV.—Jurisdiction in respect of Suits. Secs. 18-19.)

Suits in which
Court has
jurisdiction.

18. Subject to the exceptions in section 19, the Small Cause Court shall have jurisdiction to try all suits of a civil nature—

when the amount or value of the subject-matter does not exceed two thousand rupees : and

- (a) the cause of action has arisen, either wholly or in part, within the local limits of the jurisdiction of the Small Cause Court, and the leave of the Court has, for reasons to be recorded by it in writing, been given before the institution of the suit; or
- (b) all the defendants, at the time of the institution of the suit, actually and voluntarily reside, or carry on business, or personally work for gain, within such local limits; or
- (c) any of the defendants, at the time of the institution of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, within such local limits, and either the leave of the Court has been given before the institution of the suit, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution.

EXPLANATION I.—When in any suit the sum claimed is, by a set-off admitted by both parties, reduced to a balance not exceeding two thousand rupees, the Small Cause Court shall have jurisdiction to try such suit.

EXPLANATION II.—Where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

EXPLANATION III.—A Corporation or Company shall be deemed to carry on business at its sole or principal office in British India, or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Suits in which
Court has no
jurisdiction.

19. The Small Cause Court shall have no jurisdiction in—

- (a) suits concerning the assessment or collection of the revenue;
- (b) suits concerning any act ordered or done by the Governor General in Council or the Local Government, or by the Governor General or a Governor, or by any Member of the Council of the Governor General or of the Governor of Madras or Bombay, in his official capacity, or by any person by order of the Governor General in Council or the Local Government;
- (c) suits concerning any act ordered or done by any Judge or judicial officer in the execution of his office, or by any person in pursuance of

(Chapter IV.—Jurisdiction in respect of Suits. Sec. 20.)

any judgment or order of any Court or any such Judge or judicial officer ;

- (d) suits for the recovery of immoveable property ;
- (e) suits for the partition of immoveable property ;
- (f) suits for the foreclosure or redemption of a mortgage of immoveable property ;
- (g) suits for the determination of any other right to or interest in immoveable property ;
- (h) suits for the specific performance or rescission of contracts ;
- (i) suits to obtain an injunction ;
- (j) suits for the cancellation or rectification of instruments ;
- (k) suits to enforce a trust ;
- (l) suits for a general average loss and suits on policies of insurance on sea-going vessels ;
- (m) suits for compensation in respect of collisions on the high seas ;
- (n) suits for compensation for the infringement of a patent, copyright or trade-mark ;
- (o) suits for a dissolution of partnership or for an account of partnership-transactions ;
- (p) suits for an account of property and its due administration under the decree of the Court ;
- (q) suits for compensation for libel, slander, malicious prosecution, adultery or breach of promise of marriage ;
- (r) suits for the restitution of conjugal rights, for the recovery of a wife, or for a divorce ;
- (s) suits for declaratory decrees ;
- (t) suits for possession of a hereditary office ;
- (u) suits against Sovereign Princes or Ruling Chiefs, or against Ambassadors or Envoys of Foreign States ;
- (v) suits on any judgment of a High Court ;
- (w) suits the cognizance whereof by the Small Cause Court is barred by any law for the time being in force.

20. When the parties to a suit which, if the amount or value of the subject-matter thereof did not exceed two thousand rupees, would be cognizable by the Small Cause Court, have entered into an agreement^a in writing that the Small Cause Court shall have jurisdiction to try such suit, the Court

Court may
by consent
try suits
beyond pecu-
niary limits
of jurisdic-
tion.

^a As to additional fee payable on the filing of such agreement, see section 71, *infra*.

shall have jurisdiction to try the same, although the amount or value of the subject-matter thereof may exceed two thousand rupees.

Every such agreement shall be filed in the Small Cause Court, and, when so filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by its decision in such suit.

Suits by and
against
officers of
Court.

21. All suits to which an officer of the Small Cause Court is, as such, a party, except suits in respect of property taken in execution of its process, or the proceeds or value thereof, may be instituted in the High Court at the election of the plaintiff as if this Act had not been passed.

Costs when
plaintiff sues
in High
Court in
other cases
cognizable by
Small Cause
Court.

22. If any suit cognizable by the Small Cause Court, other than a suit to which section 21 applies, is instituted in the High Court, and if in such suit the plaintiff obtains, in the case of a suit founded on contract, a decree for any matter of an amount or value less than two thousand rupees, and in the case of any other suit a decree for any matter of an amount or value of less than three hundred rupees, no costs shall be allowed to the plaintiff;

and if in any such suit the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client.

The foregoing rules shall not apply to any suit in which the Judge who tries the same certifies that it was one fit to be brought in the High Court.^a

CHAPTER V.

PROCEDURE IN SUITS.

Portions of
Civil Proce-
dure Code
extending to
Court

23. The portions of the Code of Civil Procedure specified in the second schedule hereto annexed shall extend, and shall, so far as the same may, in the judgment of the Court, be applicable, be applied, to the Small Cause Court; and the procedure prescribed thereby shall be the procedure followed in the Court in all suits cognizable by it, except where such procedure is inconsistent with the procedure prescribed by any specific provisions of this Act: XIV of 1882.

Provided that the Court may, subject to the control of the Local Government, from time to time, by notification in the official Gazette, declare that any of the said portions of the said Court shall not extend and be applied to the Small Cause Court, or that any of such portions shall so extend and be applied with such modifications as the Court, subject to the control aforesaid, may think fit.

^a or to any suit under section 47 of this Act, which see.

- XIV of 1882. 24. Except in cases of set-off under the Code of Civil Procedure, section 111, no written statement shall be received unless required by the Court.
- No written statement except in cases of set-off.
25. When a period of eight days from the decision of a suit has expired without any application for a new trial or re-hearing of such suit having been made, or when any such application has been made within such period and such application has been refused, or the new trial or re-hearing (as the case may be) has ended, any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record, shall, unless the document is impounded under section 143 of the Code of Civil Procedure, be entitled to receive back the same :
- Return of documents admitted in evidence.
- XIV of 1882. Provided that a document may be returned at any time before any of such events on such terms as the Court may direct : provided also that no document shall be returned which, by force of the decree, has become void or useless.
- On the return of a document which has been admitted in evidence, a receipt shall be given, by the party receiving it, in a receipt-book to be kept for the purpose.
26. In any suit in which the defendant appears and does not admit the claim, and the plaintiff does not obtain a decree for the full amount of his claim, the Small Cause Court may in its discretion order the plaintiff to pay to the defendant, by way of satisfaction for his trouble and attendance, such sum as it thinks fit.
- Compensation payable by plaintiff to defendant in certain cases.
- XIV of 1882. When any claim preferred, or objection made, under section 278 of the Code of Civil Procedure is disallowed, the Small Cause Court may in its discretion order the person preferring or making such claim or objection to pay to the decree-holder, or to the judgment-debtor, or to both, by way of satisfaction as aforesaid, such sum or sums as it thinks fit.
- And when any claim or objection is allowed the Court may award such compensation by way of damages to the claimant or objector as it thinks fit ; and the order of the Court awarding or refusing such compensation shall bar any suit in respect of injury caused by the attachment.
- Any order under this section may, in default of payment of the amount payable thereunder, be enforced by the person in whose favour it is made against the person against whom it is made as if it were a decree of the Court.
27. Whenever the Small Cause Court issues a warrant for the arrest of a judgment-debtor or the attachment of his property, the decree-holder, or some other person on his behalf, shall accompany the officer of the Court
- Decree-holder to accompany officer executing warrant.

(Chapter V.—Procedure in Suits. Secs. 28-32)

entrusted with the execution of such warrant, and shall point out to such officer the judgment-debtor or the property to be attached, as the case may be.

Things
attached to
immoveable
property and
removeable
by tenant to
be deemed
moveable in
execution.

28. When the judgment-debtor under any decree of the Small Cause Court is a tenant of immoveable property, anything attached to such property, and which he might before the termination of his tenancy lawfully remove without the permission of his landlord, shall, for the purpose of the execution of such decree, be deemed to be moveable property, and may, if sold in such execution, be severed by the purchaser, but shall not be removed by him from the property until he has done to the property whatever the judgment-debtor would have been bound to do to it if he had removed such thing.

Discharge of
judgment-
debtor on
sufficient
security.

29. Whenever any judgment-debtor, who has been arrested or whose property has been seized in execution of a decree of the Small Cause Court, offers security to the satisfaction of such Court for payment of the amount which he has been ordered to pay and the costs, the Court may order him to be discharged or the property to be released.

Court may in
certain cases
suspend
execution of
decree.

30. Whenever it appears to the Small Cause Court that any judgment-debtor under its decree is unable, from sickness, poverty or other sufficient cause, to pay the amount of the decree, or, if such Court has ordered the same to be paid in instalments, the amount of any instalment thereof, it may, from time to time, for such time and upon such terms as it thinks fit, suspend the execution of such decree and discharge the debtor, or make such order as it thinks fit.

Execution of
decree of
Small Cause
Court by
other Courts.

31. If the judgment-debtor under any decree of the Small Cause Court has not, within the local limits of its jurisdiction, moveable property sufficient to satisfy the decree, the Court may, on the application of the decree-holder, send the decree for execution—

(a) in the case of execution against immoveable property situate within such local limits—to the High Court;

(b) in all other cases—to any Civil Court within the local limits of whose jurisdiction such judgment-debtor, or any moveable or immoveable property of such judgment-debtor, may be found.

Procedure
when decree
transferred.

The procedure prescribed by the Code of Civil Procedure^a for the execution of decrees by Courts other than those which made them shall be the procedure followed in such cases. XIV of 1882.

Minors may
sue in cer-
tain cases as
if of full age.

32. Notwithstanding anything contained in the Code of Civil Procedure as applied by this Act, any minor may institute a suit for any sum of money, not XIV of 1882

^aSee Act XIV of 1882, Chapter XIX.

IX of 1872 exceeding five hundred rupees, which may be due to him under section 70 of the Indian Contract Act, 1872, for wages or piece-work or for work as a servant, in the same manner as if he were of full age.

XIV of 1882. 33. Any non-judicial or quasi-judicial act which the Code of Civil Procedure as applied by this Act requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394 of that Code as so applied, may be done by the Registrar of the Small Cause Court or by such other officer of that Court as that Court may, from time to time, appoint in this behalf.

Power to delegate non-judicial duties.

The High Court may, from time to time, by rule, declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

34. The suits cognizable by the Registrar under section 14 shall be heard and determined by him in like manner in all respects as a Judge of the Court might hear and determine the same :

Registrar to hear and determine suits like a Judge.

Provided that, subject to the control of the Chief Judge, any Judge of the Court may, whenever he thinks fit, transfer to his own file any suit on the file of the Registrar.

Proviso.

35. The Registrar may receive applications for the execution of decrees of any value passed by the Court, and may commit and discharge judgment-debtors, and make any order in respect thereof which a Judge of the Court might make under this Act.

Registrar may execute all decrees with the same powers as a Judge.

36. Every decree and order made by the Registrar in any suit or proceeding shall be subject to the same provisions in regard to new trial as if made by a Judge of the Court.

Decrees and orders of Registrar to be subject to new trial as if made by a Judge.

CHAPTER VI.

NEW TRIALS AND RE-HEARING.

XIV of 1882 37. Save as is herein specially provided, every decree and order of the Small Cause Court in a suit shall be final and conclusive; but the Court may, on application of either party, made within eight days from the date of the decree or order in any suit (not being a decree passed under section 522 of the Code of Civil Procedure), order a new trial to be held, or alter, set aside or reverse the decree or order, upon such terms as it thinks reasonable, and may, in the meantime, stay the proceedings.

Judgments and orders of Court final.

Power to order new trial in Small Cause Court.

38. Any party may, within eight days after the judgment in any suit in the Small Cause Court in which the amount or value of the subject-matter

Application for re-hear-

(Chapter VII.—*Recovery of Possession of Immoveable Property.* Secs. 39-41.)

ing in High Court.

exceeds one thousand rupees, apply ^a to the High Court for an order that such suit may be re-heard in the High Court.

Such application shall be supported by affidavits, and, in case the applicant has appeared in the Small Cause Court by advocate, vakil, attorney or pleader, by a certificate from such advocate, vakil, attorney or pleader that in his opinion there are good grounds for re-hearing the suit; and if, on hearing such application, the High Court is of opinion that there has been a miscarriage or failure of justice, or that there are other good grounds for such re-hearing, the Court shall make an order *ex parte*, on such terms as it thinks fit, for such re-hearing, and fix a day for the same, whereof notice shall be given to the opposite party.

The rules contained in sections 545, 546 and 547 of the Code of Civil Procedure, relating to staying and executing decrees under appeal, shall apply in the case of applications under this section as if such applications were appeals from the decisions of the Small Cause Court.

XIV of 1882.

Procedure at re-hearing.

39. On the day fixed under section 38 or on any other day to which the re-hearing may be adjourned, the High Court, or some Judge thereof, shall proceed to re-hear and determine the case as if the same were a suit brought in such High Court in its ordinary original civil jurisdiction, in which the plaintiff in the Small Cause Court was plaintiff, and the defendant in such Court was defendant, and in which written statements had not been ordered to be filed; and, except as herein otherwise provided, all the practice and procedure of such High Court in respect of suits brought in its ordinary original civil jurisdiction shall be followed in suits re-heard under this section: provided that there shall not be any appeal from any judgment, decree or order under this section.

Execution of decree of High Court.

40. Every decree or order made by any High Court upon any such re-hearing may either be executed by such High Court in the same manner as other decrees or orders of such Court, or may, in the discretion of the High Court, be remitted to the Small Cause Court for execution.

CHAPTER VII.

RECOVERY OF POSSESSION OF IMMOVEABLE PROPERTY.

Summons against person occupying property without leave.

41. When any person has had possession of any immoveable property situate within the local limits of the Small Cause Court's jurisdiction and of which the annual value at a rack-rent does not exceed one thousand rupees.

^a For fee on such applications, see section 71, *infra*.

as the tenant, or by permission, of another person, or of some person through whom such other person claims,

and such tenancy or permission has determined or been withdrawn,

and such tenant or occupier or any person holding under or by assignment from him (hereinafter called the occupant) refuses to deliver up such property in compliance with a request made to him in this behalf by such other person,

such other person (hereinafter called the applicant) may apply^a to the Small Cause Court for a summons against the occupant, calling upon him to show cause, on a day therein appointed, why he should not be compelled to deliver up the property.

XIV of 1882. 42. The summons shall be served on the occupant in the manner provided by the Code of Civil Procedure^b for the service of a summons on a defendant. Service of summons.

43. If the occupant does not appear at the time appointed and show cause to the contrary, the applicant shall, if the Small Cause Court is satisfied that he is entitled to apply under section 41, be entitled to an order addressed to a bailiff of the Court directing him to give possession of the property to the applicant on such day as the Court thinks fit to name in such order. Order for possession.

EXPLANATION.—If the occupant proves that the tenancy was created or permission granted by virtue of a title which determined previous to the date of the application, he shall be deemed to have shown cause within the meaning of this section.

44. Any such order shall justify the bailiff to whom it is addressed in entering after the hour of six in the morning and before the hour of six in the afternoon upon the property named therein, and such assistants as he thinks necessary, and giving possession of such property to the applicant: and no suit or prosecution shall be maintainable against any Judge or officer of the Small Cause Court by whom any such order as aforesaid was issued, or against any bailiff or other person by whom the same was executed, or by whom any such summons as aforesaid was served, for the issue, execution or service of any such order or summons, by reason only that the applicant was not entitled to the possession of the property. Such order to justify bailiff entering on property and giving possession.
Bar to proceedings against Judge or officer for issuing, &c., order or summons.

45. When the applicant, at the time of applying for any such order as aforesaid, was entitled to the possession of such property, neither he nor any person acting in his behalf shall be deemed, on account of any error, defect or irregularity in the mode of proceeding to obtain possession thereunder, to be a trespasser; but any person aggrieved may bring a suit for the recovery of Applicant, if entitled to possession, not to be deemed trespasser for any error in proceedings. Occupant may sue for compensation.

^a For fee on such applications, see section 71, *infra*.

^b See Act XIV of 1882, sections 72 to 92.

(Chapter VIII.—Distresses. Secs. 46-50.)

compensation for any damage which he has sustained by reason of such error, defect or irregularity :

when no such damage is proved, the suit shall be dismissed ; and when such damage is proved but the amount of the compensation assessed by the Court does not exceed ten rupees, the Court shall award to the plaintiff no more costs than compensation, unless the Judge who tries the case certifies that in his opinion full costs should be awarded to the plaintiff.

Liability of applicant obtaining order when not entitled.

46. Nothing herein contained shall be deemed to protect any applicant obtaining possession of any property under this chapter from a suit by any person deeming himself aggrieved thereby, when such applicant was not at the time of applying for such order as aforesaid entitled to the possession of such property.

Application for order in such case an act of trespass.

And when the applicant was not, at the time of applying for any such order as aforesaid, entitled to the possession of such property, the application for such order, though no possession is taken thereunder, shall be deemed to be an act of trespass committed by the applicant against the occupant.

Stay of proceedings on occupant giving security to bring suit against applicant.

47. Whenever on an application being made under section 41 the occupant binds himself, with two sureties, in a bond for such amount as the Small Cause Court thinks reasonable, having regard to the value of the property and the probable costs of the suit next hereinafter mentioned, to institute without delay a suit in the High Court against the applicant for compensation for trespass and to pay all the costs of such suit in case he does not prosecute the same or in case judgment therein is given for the applicant, the Small Cause Court shall stay the proceedings on such application until such suit is disposed of.

If the occupant obtains a decree in any such suit against the applicant, such decree shall supersede the order (if any) made under section 43.

Nothing contained in section 22 shall apply to suits under this section.

Proceedings to be regulated by Code of Civil Procedure.

48. In all proceedings under this chapter, the Small Cause Court shall, as far as may be and except as herein otherwise provided, follow the procedure prescribed for a Court of first instance by the Code of Civil Procedure.

XIV of 1882.

Recovery of possession no bar to suit to try title.

49. Recovery of the possession of any immoveable property under this chapter shall be no bar to the institution of a suit in the High Court for trying the title thereto.

CHAPTER VIII.

DISTRESSES.

Local extent

50. This chapter extends to every place within the local limits of the

(Chapter VIII.—Distresses. Secs. 51-57.)

ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay. But nothing contained in this chapter applies—

(a) to any rent due to Government;

(b) to any rent which has been due for more than twelve months before the application mentioned in section 53.

51. The Judges of the Small Cause Court may appoint four or more persons to be bailiffs and appraisers for the purpose of this chapter, and may from time to time, with the previous sanction of the Local Government, fix such remuneration for the services of such officers as the said Judges think fit, and may suspend or remove them.

52. The persons so appointed shall give security, to be approved by the said Judges, faithfully to discharge the duties of their office, and they shall be deemed to be public servants within the meaning of the Indian Penal Code.

XIV of 1860.

53. Any person claiming to be entitled to arrears of rent of any house or premises to which this chapter extends, or his duly constituted attorney, may apply to any Judge of the Small Cause Court, or to the Registrar of the Small Cause Court, for such warrant as is hereinafter mentioned.

The application shall be supported by an affidavit or affirmation to the effect of the form (marked A) in the third schedule hereto annexed.

54. The Judge or Registrar may thereupon issue a warrant under his hand and seal and returnable within six days, to the effect of the form (marked B) contained in the same schedule, addressed to any one of such bailiffs.

The Judge or Registrar may at his discretion, upon personal examination of the person applying for such warrant, decline to issue the same.

55. Every distress under this chapter shall be made after sunrise and before sunset, and not at any other time.

56. The bailiff directed to make the distress may force open any stable, out-house or other building, and may also enter any dwelling-house the outer door of which may be open, and may break open the door of any room in such dwelling-house, for the purpose of seizing property liable to be seized under this chapter :

Provided that he shall not enter or break open the door of any room appropriated for the *zauaná* or residence of women, which by the usage of the country is considered private.

57. In pursuance of the warrant aforesaid the bailiff shall seize the moveable property found in or upon the house or premises mentioned in the warrant and belonging to the person from whom the rent is claimed (hereinafter called the debtor), or such part thereof as may, in the bailiff's judgment, be sufficient

of chapter.
Saving of
certain rents.

Appointment
of bailiffs
and apprais-
ers.

Security to
be given by
appointees.

Application
for distress-
warrant.

Issue of dis-
tress-war-
rant.

Time for
distress.

What places
bailiff may
force open.

Property
which may
be seized.

(Chapter VIII.—Distresses. Secs. 58 61.)

to cover the amount of the said rent, together with the costs of the said distress:

Provided that the bailiff shall not seize—

(a) things in actual use; or

(b) tools and implements not in use, where there is other moveable property in or upon the house or premises sufficient to cover such amount and costs; or

(c) the debtor's necessary wearing apparel; or

(d) goods in the custody of the law.

Impounding
distress.

58. The bailiff may impound or otherwise secure the property so seized in or on the house or premises chargeable with the rent.

Inventory.

Notice of intended
appraisement
and sale.

59. On seizing any property under section 57 the bailiff shall make an inventory of such property, and shall give a notice in writing, to the effect of the form (marked C) in the third schedule hereto annexed, to the debtor, or to any other person upon his behalf in or upon the said house or premises.

Copies of in-
ventory and
notice to be
filed.

The bailiff shall, as soon as may be, file in the Small Cause Court copies of the said inventory and notice.

Application
to discharge
or suspend
warrant.

60. The debtor or any other person alleging himself to be the owner of any property seized under this chapter, or the duly constituted attorney of such debtor or other person, may, at any time within five days from such seizure, apply to any Judge of the said Court to discharge or suspend the warrant, or to release a distrained article, and such Judge may discharge or suspend such warrant or release such article accordingly, upon such terms as he thinks just;

and any of the Judges of the said Court may in his discretion give reasonable time to the debtor to pay the rent due from him.

Upon any such application, the costs attending it and attending the issue and execution of the warrant shall be in the discretion of the Judge, and shall be paid as he directs.

Claim to
goods dis-
trained made
by a stranger.

61. If any claim is made to, or in respect of, any property seized under this chapter, or in respect of the proceeds or value thereof, by any person not being the debtor, the Registrar of the Small Cause Court, upon the application of the bailiff who seized the property, may issue a summons calling before the Court the claimant and the person who obtained the warrant.

And thereupon any suit which may have been brought in the High Court in respect of such claim shall be stayed, and any Judge of the High Court, on proof of the issue of such summons and that the property was so distrained,

(Chapter VIII.—Distresses. Secs. 62-64.)

may order the plaintiff to pay the costs of all proceedings in such suit after the issue of such summons.

And a Judge of the Small Cause Court shall adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as he thinks fit;

and such order shall be enforced as if it were an order made in a suit brought in such Court.

The procedure in Small Cause Courts in cases under this section shall conform, as far as may be, to the procedure in an ordinary suit in such Courts.

62. In any case under section 60 or section 61 the Judge by whom the case is heard may award such compensation by way of damages to the applicant or claimant (as the case may be) as the Judge thinks fit,

Power to award compensation to debtor or claimant.

and may for that purpose make any enquiry he thinks necessary;

and the order of the Judge awarding or refusing such compensation shall bar any suit for the recovery of compensation for any damage caused by the distress.

63. In any case under section 60 or section 61, if the value of the subject-matter in dispute exceeds one thousand rupees, the applicant or claimant may apply to the High Court to transfer the case to itself, and the High Court, on being satisfied that it is expedient that the case should be disposed of by itself, may direct the case to be transferred accordingly, and may thereupon alter or set aside any order passed in the case by a Judge of the Small Cause Court, and may make such order therein as the High Court thinks fit.

Power to transfer to High Court cases involving more than Rs. 1,000.

Every application under this section shall be made within seven days from the date of the seizure of the subject-matter in dispute.

In granting applications under this section, the High Court may impose such terms as to payment of, or giving security for, costs or otherwise as it thinks fit.

The procedure in cases transferred under this section shall conform, as far as may be, to the procedure in suits before the High Court in the exercise of its ordinary original civil jurisdiction; and orders made under this section may be executed as if they were made in the exercise of such jurisdiction; and every such order awarding or refusing compensation shall bar any suit for the recovery of compensation for any damage caused by the distress which gave rise to the case wherein such order was made.

64. In default of any order to the contrary by a Judge of the Small Cause Court or by the High Court, any two of the said bailiffs may, at the expiration of five days from a seizure of property under this chapter, appraise

Appraisal.

(Chapter IX.—References to High Court. Secs. 65-69.)

Notice of sale. the property so seized, and give the debtor notice in writing to the effect of the form (marked D) in the third schedule hereto annexed.

The bailiffs shall file in the Small Cause Court a copy of every notice given under this section.

Sale. 65. In default of any such order to the contrary, the distrained property shall be sold on the day mentioned in such notice, and the said bailiffs shall, on realizing the proceeds, pay over the amount thereof to the Registrar of the Small Cause Court; and such amount shall be applied first in payment of the costs of the said distress and then in satisfaction of the debt; and the surplus, if any, shall be returned to the debtor :

Application of proceeds.

Provided that the debtor may direct that the sale shall take place in any other manner, first giving security for any extra costs thereby occasioned.

Costs of distresses.

66. No costs of any distress under this chapter shall be taken or demanded except those mentioned in the part (marked E) of the third schedule hereto annexed.

The Judges of the Small Cause Court may apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said bailiffs, as appears to the said Judges expedient.

Account of costs and proceeds.

67. The Registrar of the Small Cause Court shall keep a book in which all sums received as costs upon distresses made under this chapter, and all sums paid as remuneration to the said bailiffs, and all contingent charges incurred in respect of such distresses, shall be duly entered.

He shall also enter in the said book all sums realized by sale of the property distrained and paid over to landlords under the provisions of this chapter.

Bar of distresses except under this chapter. Penalty for making illegal distresses.

68. No distress shall be levied for arrears of rent, except under the provisions of this chapter ;

And any person, except a bailiff appointed under section 51, levying or attempting to levy any such distress shall, on conviction before a Presidency Magistrate, be liable to be punished with fine which may extend to five hundred rupees and with imprisonment for a term which may extend to three months, in addition to any other liability he may have incurred by his proceedings.

CHAPTER IX.

REFERENCES TO HIGH COURT.

Reference when compulsory.

69. If two or more Judges of the Small Cause Court sit together in any suit, or in any proceeding under Chapter VII of this Act, and differ in their

(Chapter X.—Fees and Costs, Secs. 70-72.)

opinion as to any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits,

or if in any suit or any such proceeding, in which the amount or value of the subject-matter exceeds five hundred rupees, any such question arises, and either party so requires,

XIV of 1882. the Small Cause Court shall draw up a statement of the facts of the case, and refer such statement, under section 617 of the Code of Civil Procedure, for the opinion of the High Court, and shall either reserve judgment or give judgment contingent upon such opinion.

70. When judgment is given under section 69 contingent upon the opinion of the High Court, the party against whom such judgment is given shall at once furnish security, to be approved by the Small Cause Court, for the costs of the reference to the High Court and for the amount of such judgment:

Security to be furnished on such reference by party against whom contingent judgment given.

Provided that no security for the amount of such judgment shall be required in any case in which the Judge who tried the case has ordered such amount to be paid into Court, and the same has been paid accordingly.

Unless such security as aforesaid is at once furnished, the party against whom such contingent judgment has been given shall be deemed to have submitted to the same.

If no such security given, party to be deemed to have submitted to judgment.

CHAPTER X.

FEES AND COSTS.

71. A fee not exceeding—

Institution-fee.

- (a) when the amount or value of the subject-matter does not exceed five hundred rupees—the sum of two annas in the rupee on such amount or value,
- (b) when the amount or value of the subject-matter exceeds five hundred rupees—the sum of sixty-two rupees eight annas, and one anna in the rupee on the excess of such amount or value over five hundred rupees,

shall be paid on the plaint in every suit, and every application under section 38 or section 41; and no such plaint or application shall be received until such fee has been paid.

An additional fee of ten rupees shall be paid on the filing of every agreement under section 20.

72. The fees specified in the third and fourth columns of the fourth schedule hereto annexed shall be paid previous to the issue in any suit or in

Fees for processes.

(Chapter XI.—Misconduct of inferior Ministerial Officers. Secs. 73-79.)

any proceeding under Chapter VII of this Act of the processes to which the said columns respectively relate, by the persons on whose behalf such processes are issued, when the amount or value of the subject-matter exceeds the sum specified in the first column but does not exceed the sum specified in the second column of the said schedule.

Repayment
of half fees
on settlement
before hear-
ing.

73. Whenever any such suit or proceeding is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the Small Cause Court to the parties by whom the same have been respectively paid.

Fees and
costs of poor
persons.

74. The Small Cause Court may, whenever it thinks fit, receive and register suits instituted, and applications under section 41 made, by poor persons, and may issue processes on behalf of such persons without payment, or on a part-payment of the fees mentioned in sections 71 and 72.

Power to
vary fees.

75. The Local Government may, from time to time, by notification in the official Gazette, vary the amount of the fees payable under sections 71 and 72 :

Provided that the amount of such fees shall in no case exceed the amount prescribed by the said sections.

Expense of
employing
legal practi-
tioners.

76. The expense of employing an advocate, vakil, attorney or other legal practitioner incurred by any party shall not be allowed as costs in any suit or in any proceeding under Chapter VII of this Act, in the Small Cause Court, in which suit or proceeding the amount or value of the subject-matter does not exceed twenty rupees, unless the Court is of opinion that the employment of such practitioner was under the circumstances reasonable.

Sections 3,
5 and 25 of
Court-fees
Act, 1870,
saved.

77. Nothing contained in this chapter shall affect the provisions of sections 3, 5 and 25 of the Court-fees Act, 1870.

VII of 1870

CHAPTER XI.

MISCONDUCT OF INFERIOR MINISTERIAL OFFICERS.

Power to
fine officers.

78. The Chief Judge may, by order, fine, in an amount not exceeding one month's salary, any clerk, bailiff or other inferior ministerial officer of the Court who is guilty of misconduct or neglect in the performance of the duties of his office ; and such fine may be deducted from his salary.

Default of
bailiff or
other officer
in execution
of order or
warrant.

79. If any clerk, bailiff or other inferior ministerial officer of the Small Cause Court who is employed as such in the execution of any order or warrant, loses, by neglect, connivance or omission, an opportunity of executing such order or warrant, he shall be liable, by order of the Chief Judge, on the appli-

(Chapter XII.—Contempt of Court. Secs. 80-84.)

cation of the person injured by such neglect, connivance or omission, to pay such sum, not exceeding in any case the sum for which the said order or warrant was issued, as, in the opinion of the Chief Judge, represents the amount of the damage sustained by such person thereby.

80. If any clerk, bailiff or other inferior ministerial officer of the Small Cause Court is charged with extortion or misconduct while acting under colour of its process, or with not duly paying or accounting for any money levied by him under its authority, the Court may inquire into such charge, and may make such order for the repayment or payment of any money so extorted, or of any money so levied as aforesaid, and of damages and costs, by such officer, as it thinks fit.

Extortion or
default of
officers.

81. For the purposes of any inquiry under this chapter, the Small Cause Court shall have all the powers of summoning and enforcing the attendance of witnesses and compelling the production of documents which it possesses in suits under this Act.

Court em-
powered to
summon wit-
nesses, &c.

82. Any order under this chapter for the payment or repayment of money may, in default of payment of the amount payable thereunder, be enforced by the person to whom such amount is payable as if the same were a decree of the Small Cause Court in his favour.

Enforcement
of order.

CHAPTER XII.

CONTEMPT OF COURT.

83. When any such offence as is described in section 175, 178, 179, 180 or 228 of the Indian Penal Code is committed in the view or presence of the Small Cause Court, the Court may cause the offender to be detained in custody; and, at any time before the rising of the Court on the same day, may, if it thinks fit, take cognizance of the offence, and punish the offender with fine which may extend to two hundred rupees, and in default of payment of such fine with imprisonment in the civil jail for a term which may extend to one month unless such fine is sooner paid.

Procedure of
Court in cer-
tain cases
of contempt.

84. In every such case the Court shall record the facts constituting the offence, the statement (if any) made by the offender, and the finding and sentence.

Record in
such cases.

V of 1860. If the offence is under section 228 of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which the Court

when interrupted or insulted was sitting, and the nature of the interruption or insult offered.

Procedure where Court considers that case should not be dealt with under section 83.

85. If the Court considers that a person accused of any offence referred to in section 83 and committed in its view or presence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, or if the Court is for any other reason of opinion that the case should not be disposed of under section 83, the Court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a Presidency Magistrate, and may require security to be given for the appearance of such accused person before such Magistrate, or, if sufficient security is not given, may forward him under custody to such Magistrate.

Such Magistrate shall deal with the accused person in the manner provided by the Code of Criminal Procedure,^a and may sentence the offender to punishment as provided in the section of the Indian Penal Code under which he is charged. X of 1882 XLV of 186

Discharge of offender on submission or apology.

86. When the Court has, under section 83 or section 85, punished an offender, or forwarded him to a Presidency Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may in its discretion discharge the offender or remit the punishment on his submission to the order or requisition of the Court, or on apology being made to its satisfaction.

Imprisonment or committal of person refusing to answer or produce document.

87. If any witness before the Small Cause Court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, the Court may sentence him to simple imprisonment, or commit him to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to answer such questions or to produce such document, as the case may be, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 83 or section 85.

Appeal from orders under sections 83 and 87.

88. Any person deeming himself aggrieved by an order under section 83 or section 87 may appeal to the High Court, and the provisions of the Code of Criminal Procedure^b relating to appeals shall, so far as may be, apply to appeals under this section. X of 1882.

^a See Act X of 1882, Chapter XXXV and section 3.

^b See Act X of 1882, Chapter XXXI and section 3.

CHAPTER XIII.

MISCELLANEOUS.

89. Notices to produce documents, summonses to witnesses and all other processes issued in the exercise of any jurisdiction conferred on the Small Cause Court by this Act, except summonses to defendants and writs of execution, may, if the Court by general or special order so directs, be served by such persons as the Court, from time to time, appoints in this behalf.

Persons by whom process may be served.

90. The Small Cause Court shall keep such registers, books and accounts, and submit to the High Court such statements and returns, as may, subject to the approval of the Local Government, be prescribed by the High Court.

Registers and returns.

91. The Small Cause Court shall comply with such requisitions as may, from time to time, be made by the Local Government or High Court for records, returns and statements in such form and manner as such Government or Court, as the case may be, thinks fit.

Court to furnish records, &c, called for by Local Government or High Court.

92. The Small Cause Court shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the Local Government.

Holidays and vacations.

Such list, when it has received such approval, shall be published in the local official Gazette, and the said holidays and vacations shall be observed accordingly.

93. The Governor General and Members of his Council, the Governors of Fort St. George and Bombay and the Members of their respective Councils, the Lieutenant-Governor of Bengal, and the Chief Justices and Judges of the High Courts established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, shall not be liable to arrest by order of the Small Cause Court.

Certain persons exempt from arrest by Court.

24 & 25 Vic,
cap. 104.

94. No suit shall lie on any decree of the Small Cause Court.

No suit to lie upon decree of Court.

95. Any person ordered by the Small Cause Court to be imprisoned may be imprisoned in such place as the Local Government, from time to time, appoints in this behalf.

Place of imprisonment.

96. If any person against whom any suit is brought for anything purporting to be done by him under this Act has, before the institution of the suit, tendered sufficient amends to the plaintiff, the plaintiff shall not recover.

Tender in suit for anything done under Act.

97. All prosecutions for anything purporting to be done under this Act must be commenced within three months after the offence was committed.

Limitation of prosecutions.

THE FIRST SCHEDULE.

(See section 2)

ENACTMENTS REPEALED.

A.—Charters of the Supreme Courts.

| Date. | | Extent of repeal. |
|---------------------|---|-------------------|
| 26th March, 1774 | Charter of the Supreme Court at Fort William. | Clause 21. |
| 26th December, 1800 | Charter of the Supreme Court at Madras. | Clause 47. |
| 8th December, 1823 | Charter of the Supreme Court at Bombay. | Clause 59. |

B—Acts of the Governor General in Council.

| Number and year. | Subject or short title. | Extent of repeal. |
|------------------|---|-----------------------------------|
| IX of 1850 | For the more easy recovery of small debts and demands in Calcutta, Madras and Bombay. | So much as has not been repealed. |
| XX of 1857 | To amend Act IX of 1850 | The whole. |
| XXVI of 1864 | To extend the jurisdiction of the Courts of Small Causes at Calcutta, Madras and Bombay, and to provide for the appointment of an increased number of Judges of those Courts. | So much as has not been repealed. |
| I of 1875 | To regulate Distresses for Rents in the Presidency-towns. | The whole. |
| X of 1877 | The Code of Civil Procedure | Section 8, para. 2. |

THE FIRST SCHEDULE—*concluded*.ENACTMENTS REPEALED—*concluded*.C.—*Act of the Governor of Bombay in Council.*

| Number and year. | Subject. | Extent of repeal. |
|------------------|--|-----------------------------------|
| VI of 1864 . . . | For the better regulation of the diet-money of persons imprisoned by the Bombay Court of Small Causes. | So much as has not been repealed. |

THE SECOND SCHEDULE.

(See section 23.)

f 1882.

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

PRELIMINARY: Section 2,^a Interpretation-clause.CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11.

CHAPTER II.—Of the Place of Suing, except sections 15 to 19 (both inclusive), section 20, paragraph 4, sections 22, 23 and 24 and section 25, paragraphs 2 and 3.

CHAPTER III.—Of Parties and their Appearances, Applications and Acts, except section 37, clause (b), and the last paragraph.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits, except section 53, clause (e), section 55, section 57, clause (b), and sections 58 and 62.

CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words "and the copies or concise statements required by section 58 have been filed," and sections 65, 66 and 86.^b

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off, except sections 110, 112 and 113.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Sending for Records and Production, &c., of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141 (except the third sentence), 142, 143 and 145.

CHAPTER XI.—Settlement of issues, sections 150 and 151.

CHAPTER XII.—Disposal of the Suit at the first hearing, except sections 154 and 155.

^a As to section 3, see Act XIV of 1882, section 8.^b As to section 86, see Act XIV of 1882, section 8.

THE SECOND SCHEDULE—*concluded*.PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT—*concluded*. XIV of 1882.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive).

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive).

CHAPTER XVIII.—Of Costs.

CHAPTER XIX.—Of the Execution of Decrees,^a section 230, first two clauses, sections 231 to 238 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of Requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVII.—Suits by or against Government or Public Officers.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433.

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property.

CHAPTER XXXV.—Interlocutory Orders, sections 498, 499, 500 and 502.

CHAPTER XXXVI.—Appointment of Receivers, section 503.

CHAPTER XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause (b), as relates to immoveable property.

^bCHAPTER XLVI.—Of Reference to and Revision by High Court.

CHAPTER XLIX.—Miscellaneous, sections 640 to 651 (both inclusive).

^a As to sections 223 and 225, see Act XIV of 1882, section 8.^b As to Chapter XXXIX, see Act XIV of 1882, section 538.

THE THIRD SCHEDULE.

FORMS.

A.

[See section 53.]

*In the Small Cause Court for**A. B.* (Plaintiff),*versus**C. D.* (Defendant).

A. B. of _____, in the town of _____, maketh oath [*or affirms*] and saith that *C. D.* _____, of _____, is justly indebted to _____ in the sum of Rs. _____ for arrears of rent of the house and premises No. _____, situated at _____, in the town of _____, due for _____ months, to wit, from _____ to _____, at the rate of Rs. _____ per mensem.

Sworn [*or affirmed*] before me the _____ day of _____ 188 .

Judge [or Registrar].

B.

[See section 54.]

In the Small Cause Court for

FORM OF WARRANT.

I hereby direct you to distrain the moveable property of *C. D.*, on the house and premises situate at No. _____, in the town of _____, for the sum of _____ rupees and the costs of the distress, according to the provisions of Chapter VIII of the Presidency Small Cause Courts Act, 1882. Dated _____ day of _____ 18 .

(Signed and sealed.)

To *E. F.*, *Bailiff and Appraiser.*

C.

[See section 59.]

In the Small Cause Court for

FORM OF INVENTORY AND NOTICE.

(State particulars of property seized.)

Take notice that I have this day seized the moveable property contained in the above inventory for the sum of _____ rupees, being the amount of _____ months' rent due to *A. B.* at _____ last, and that unless you pay the amount thereof, together with the costs of this distress, within five days from the date hereof, or obtain an order from one of the Judges or the Registrar of the Small Cause Court to the contrary, the same will be appraised and sold pursuant to the provisions of Chapter VIII of the Presidency Small Cause Courts Act, 1882. Dated the _____ day of _____ 188 .

(Signed) *E. F.*,*Bailiff and Appraiser.*To *C. D.*

THE THIRD SCHEDULE—concluded.

FORMS.

D.

[See Section 64]

In the Small Cause Court for .

Take notice that we have appraised the moveable property seized on the _____ day of _____, under the provisions of Chapter VIII of the Presidency Small Cause Courts Act, 1882, of which seizure and property a notice and inventory were duly served upon you [or upon _____ on your behalf, as the case may be] under date the _____, and that the said property will be sold on the _____ [two clear days at least after the date of the notice] at _____ pursuant to the provisions of the said Act. Dated this _____ day of _____ 188 .

(Signed) E. F.,

G. H.,

Bailiffs and Appraisers.

To C. D.

E.

[See section 66.]

In the Small Cause Court for

SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE-RENT.

| Sums sued for | | Affidavit and warrant to distrain | Order to sell | Commission. | TOTAL. |
|---------------|-----|---|---------------|--------------|-----------|
| Rs. | Rs. | Rs. A. P. | Rs. A. P. | Rs. A. P. | Rs. A. P. |
| 1 and under | 5 | 0 4 0 | 0 8 0 | 0 8 0 | 1 4 0 |
| 5 | 10 | 0 8 0 | 0 8 0 | 1 0 0 | 2 0 0 |
| 10 | 15 | 0 8 0 | 0 8 0 | 1 8 0 | 2 8 0 |
| 15 | 20 | 0 8 0 | 1 0 0 | 2 0 0 | 3 8 0 |
| 20 | 25 | 0 12 0 | 1 0 0 | 2 5 0 | 4 4 0 |
| 25 | 30 | 1 0 0 | 1 0 0 | 3 0 0 | 5 0 0 |
| 30 | 35 | 1 0 0 | 1 0 0 | 3 8 0 | 5 8 0 |
| 35 | 40 | 1 0 0 | 1 8 0 | 4 0 0 | 6 8 0 |
| 40 | 45 | 1 4 0 | 2 0 0 | 4 8 0 | 7 12 0 |
| 45 | 50 | 1 8 0 | 2 0 0 | 5 0 0 | 8 8 0 |
| 50 | 60 | 2 0 0 | 2 0 0 | 6 0 0 | 10 0 0 |
| 60 | 80 | 2 8 0 | 2 8 0 | 6 8 0 | 11 8 0 |
| 80 | 100 | 3 0 0 | 3 0 0 | 7 0 0 | 13 0 0 |
| Upwards of | 100 | 3 0 0 | 3 0 0 | 7 per centum | |

The above scale includes all expenses, except in suits where the tenant disputes the landlord's claim and witnesses have to be subpoenaed, in which case each subpoena for sums under Rs. 40 must be paid for at four annas each, and twelve annas above that amount; and also where peons are kept in charge of property distrained, four annas per day must be paid per man.

THE FOURTH SCHEDULE.

[See section 72.]

FEES FOR SUMMONSES AND OTHER PROCESSES.

| When the amount or value of the subject matter exceeds | But does not exceed | Fee for summonses. | Fee for other processes. |
|--|---------------------|--------------------|--------------------------|
| Rs. | Rs. | Rs. A. P. | Rs. A. P. |
| 0 | 10 | 0 2 0 | 0 2 0 |
| 10 | 20 | 0 4 0 | 0 4 0 |
| 20 | 50 | 0 8 0 | 0 8 0 |
| 50 | 100 | 1 0 0 | 1 0 0 |
| 100 | 200 | 1 4 0 | 2 0 0 |
| 200 | 300 | 1 8 0 | 3 0 0 |
| 300 | 400 | 1 12 0 | 4 0 0 |
| 400 | 500 | 2 0 0 | 5 0 0 |
| 500 | 600 | 2 4 0 | 6 0 0 |
| 600 | 700 | 2 8 0 | 7 0 0 |
| 700 | 800 | 2 12 0 | 8 0 0 |
| 800 | 900 | 3 0 0 | 9 0 0 |
| 900 | 1,000 | 3 4 0 | 10 0 0 |
| 1,000 | 1,100 | 3 6 0 | 10 8 0 |
| 1,100 | 1,200 | 3 8 0 | 11 0 0 |
| 1,200 | 1,300 | 3 10 0 | 11 8 0 |
| 1,300 | 1,400 | 3 12 0 | 12 0 0 |
| 1,400 | 1,500 | 3 14 0 | 12 8 0 |
| 1,500 | 1,600 | 4 0 0 | 13 0 0 |
| 1,600 | 1,700 | 4 2 0 | 13 8 0 |
| 1,700 | 1,800 | 4 4 0 | 14 0 0 |
| 1,800 | 1,900 | 4 6 0 | 14 8 0 |
| 1,900 | 2,000 | 4 8 0 | 15 0 0 |

ACT No. XVII OF 1882.

Received the Governor General's assent on the 7th June 1882.

An Act to amend the Indian Ports Act, 1875.

XII of 1875.

WHEREAS it is enacted by the Indian Ports Act, 1875, section 38, that no vessel of the burden of two hundred tons or upwards shall be moved in any port to which that section has been specially extended without having a Pilot, Harbour-master or Assistant of the Master Attendant or Harbour-master on board; and that no vessel of any burden less than two hundred tons and exceeding one hundred tons shall be moved in any such port without having on board a Pilot, Harbour-master or Assistant of the Master Attendant or Harbour-master, unless authority in writing so to do has been obtained from the Conservator or some officer empowered by him to give such authority;

(II.—The Department of Paper Currency. Secs. 2-5.)

Local extent.
Commence-
ment.
Act No. III
of 1871
repealed.

It extends to the whole of British India ;
and it shall come into force on the passing thereof.

2. (1) Act No. III of 1871 (*to consolidate and amend the law relating to the Government Paper Currency*) is hereby repealed. III of 1871.

(2) All appointments made, rules prescribed, notifications published, authorities conferred, securities purchased and notes issued under the said Act, or any Act thereby repealed, shall, if in force, undisposed of or in circulation when this Act comes into force, be deemed to be respectively made, prescribed, published, conferred, purchased and issued under this Act. And all references made to any portion of the Indian Paper Currency Act, 1871, or any Act thereby repealed, in Acts or Regulations passed before this Act comes into force, shall be deemed to be made to the corresponding portion of this Act. III of 1871.

II.—The Department of Paper Currency.

Department
of Paper
Currency.

3. (1) There shall continue to be a department of the public service whose function shall be the issue of promissory notes of the Government of India, payable to bearer on demand, for such sums, not being less than five rupees, as the Governor General in Council from time to time directs.

(2) Such notes shall be called currency notes.

(3) The department shall be called the Department of Paper Currency.

Head Com-
missioner.

4. At the head of the department there shall be an officer called the Head Commissioner of Paper Currency, and there shall be three other officers, called, respectively, the Commissioner of Paper Currency for Madras, the Commissioner of Paper Currency for Bombay and the Commissioner of Paper Currency for Rangoon.

Commis-
sioners for
Madras,
Bombay and
Rangoon.

Power to
establish Cir-
cles of Issue,
&c.

5. The Governor General in Council may, from time to time, by order notified in the *Gazette of India*,—

(a) establish districts; to be called Circles of Issue, four of which circles shall include the towns of Calcutta, Madras, Bombay and Rangoon, respectively,

(b) appoint in each circle some one town to be the place of issue of currency notes, as hereinafter provided,

(c) establish in each such town an office or offices of issue,

(d) establish in any town situate in any circle an office, to be called a Currency Agency, and

(e) declare that, for the purposes of this Act, any town (other than Calcutta, Madras, Bombay or any town situate in British Burma)

(III.—Supply and Issue of Currency Notes. Secs. 6-11.)

in which an office of issue is established shall be deemed to be situate within such Presidency as is specified in the order.

6. For each Circle of Issue, other than those which include the towns of Calcutta, Madras, Bombay and Rangoon, there shall be an officer called the Deputy Commissioner of Paper Currency, and for each Currency Agency an officer called the Currency Agent. Deputy Commissioners and Currency Agents.

7. For the purposes of this Act,—

- (a) the Commissioners of Paper Currency for Madras, Bombay and Rangoon, and the Deputy Commissioners of Paper Currency in the Presidency of Fort William in Bengal, shall be subordinate to the Head Commissioner of Paper Currency ; and Subordination of Commissioners, &c.
- (b) the Deputy Commissioners of Paper Currency in the Presidencies of Fort St. George and Bombay, and in the Province of British Burma, shall be subordinate to the Commissioners of Paper Currency for Madras, Bombay and Rangoon, respectively.
- (c) The Currency Agent at any town shall be subordinate to the Head Commissioner, Commissioner or Deputy Commissioner, as the case may be, of Paper Currency for the circle of issue in which that town is situate.

8. All officers under this Act shall be appointed, and may be suspended or removed, by the Governor General in Council. Appointment, suspension and removal of officers.

III.—Supply and Issue of Currency Notes.

9. (1) The Head Commissioner shall provide currency notes of the denominations prescribed under this Act, and shall supply the Commissioners and the Currency Agents subordinate to him, and the Deputy Commissioners, with such notes as they need for the purposes of this Act. Head Commissioner to provide and distribute currency notes.

(2) The Commissioners and Deputy Commissioners shall supply the Currency Agents subordinate to them, respectively, with such notes as those Agents need for the purposes of this Act.

(3) Every such note shall bear upon it the name of the town from which it is issued.

10. (1) The name of the Head Commissioner, of one of the Commissioners, of a Deputy Commissioner, or of some other person authorized by the Head Commissioner, or by one of the Commissioners, to sign currency notes, shall be subscribed to every such note and may be impressed thereon by machinery. Signatures to notes.

(2) Names so impressed shall be taken to be valid signatures.

11. The Head Commissioner, the Commissioners, and the Deputy Com- Issue of

(III.—Supply and Issue of Currency Notes. Secs. 12-15.)

notes for silver by Head Commissioner, Commissioners and Deputy Commissioners.

missioners shall, in their respective Circles of Issue, on the demand of any person, issue from the office or offices of issue established in their respective circles, currency notes of the denominations prescribed under this Act, in exchange for the amount thereof—

- (a) in current silver coin of the Government of India,
- (b) in current silver coin made under the Portuguese Convention Act, XVII of 1881.
- (c) in current silver coin made under the Native Coinage Act, 1876, as to IX of 1876. which coin a declaration has been made under section 3 of that Act, or
- (d) in silver bullion or foreign silver coin, not being coin of the descriptions mentioned in clauses (b) and (c), at the rate of 979 rupees per 180,000 grains of silver fit for coinage, and of the standard fineness prescribed by the Indian Coinage Act, 1870 : XXIII of 1870

Provided that in all places where there is no Mint of the Government of India, any such Head Commissioner, Commissioner or Deputy Commissioner may refuse to issue notes in exchange for the bullion or coin receivable under clause (d).

Issue of notes for silver by Currency Agents.

12. Any Currency Agent to whom notes have been supplied under section 9 may, if he thinks fit, on the demand of any person, issue from his agency any such notes in exchange for the amount thereof in any coin specified in clause (a), clause (b) or clause (c) of section 11.

Issue of notes for gold.

13. The Governor General in Council may, from time to time, by order notified in the *Gazette of India*, direct that currency notes, to an extent to be specified in the order, not exceeding one-fourth of the total amount of issues represented by coin and bullion as provided by this Act, shall be issued at such offices of issue as are named in the order, in exchange for gold coin of full weight of the Government of India, or for foreign gold coin or gold bullion, at the rates, and according to the rules and conditions, fixed by that order.

Melting and assaying bullion or coin received for notes.

14. (1) The Head Commissioner, Commissioners, and Deputy Commissioners may require any bullion or foreign coin received under section 11, clause (d), or under section 13, to be melted and assayed.

(2) Any loss of weight caused by such melting or assay shall be borne by the person tendering the bullion or coin.

Certificates for bullion or coin.

15. (1) Every person tendering bullion or foreign coin under section 11, clause (d), or under section 13, and depositing it in any office of issue, shall, after the expiration of the time necessary for melting and assaying

(IV.—Notes where legal tender and where payable. V.—Reserve. Secs. 16-19.)

the same, be entitled to receive for it a certificate signed by the person authorized to issue the notes aforesaid.

(2) The certificate shall—

- (a) acknowledge the receipt of the bullion or coin,
- (b) state the amount of notes issued under this Act, or of such notes and cash, to which the holder is entitled in exchange for the bullion or coin, and
- (c) state the interval on the expiration of which, if the certificate is presented to the office, the holder shall be entitled to receive that amount.

IV.—Notes where legal tender and where payable.

16. Within any of the said Circles of Issue, a currency note issued from any town in that circle shall be a legal tender for the amount expressed in that note, in payment or on account of—

- (a) any revenue or other claim, to the amount of five rupees and upwards, due to the Government of India, and
- (b) any sum of five rupees and upwards, due by the Government of India, or by any body corporate or person in British India :

Provided that no such note shall be deemed to be a legal tender by the Government of India at any office of issue.

17. A currency note shall be payable only—

- (a) at the office or offices of issue of the town from which it has been issued, and
- (b) in the case of notes issued from any town not situate in British Burma, also at the Presidency-town of the Presidency within which that town is situate.

18. For the purposes of sections 16 and 17, notes issued from any Currency Agency shall be deemed to have been issued from the town appointed under section 5 to be the place of issue in the Circle of Issue in which that agency is established.

V.—Reserve.

III of 1871. 19. The whole amount of the coin and bullion received under this Act, and under Act III of 1871,^a for currency notes, shall be retained and secured as a reserve to pay those notes, with the exception of such an amount, not exceeding sixty millions of rupees, as the Governor General in Council, with the consent of the Secretary of State for India, from time to time, fixes.

Notes where legal tender.

Notes where payable.

Notes issued from Currency Agencies to be deemed to be issued from place of issue of circle.

Coin and bullion received for notes to be kept as a reserve except amount fixed as here-in provided.

^a Repealed by this Act—see section 2.

(V.—*Reserve. Secs. 20-24.*)

Investment
of such
amount.

20. The amount so fixed shall be published in the *Gazette of India*, and the whole or such part thereof as the Governor General in Council from time to time fixes shall be invested in securities of the Government of India.

Appropriation
of coin,
bullion and
securities.

21. (1) The said coin, bullion and securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said notes; and the said notes shall be deemed to have been issued on the security of the said coin, bullion and securities, as well as on the general credit of the Government of India:

Provided that any silver bullion or coin received under section 11, clause (d), may be sold or exchanged for silver coin of the Government of India, and that any gold coin or bullion received under section 13 may be sold or exchanged for silver coin or bullion, to be so appropriated and set apart instead of the coin or bullion sold or exchanged.

(2) For the purposes of this section, silver bullion and coin shall be rated at 98 rupees per 18,000 grains of standard fineness, and gold bullion and coin at the rates fixed by the Governor General in Council under section 13.

Trustees of
securities
purchased
under Act.

22. The securities purchased under section 20 shall be held by the Head Commissioner and the Master of the Mint at Calcutta, in trust for the Secretary of State for India in Council.

Power to sell
and replace
securities.

23. (1) The Head Commissioner may, at any time when ordered so to do by the Governor General in Council, sell and dispose of any portion of the above-mentioned investment.

(2) For the purpose of effecting such sales, the Master of the Mint at Calcutta shall, on a request in writing from the Head Commissioner, at all times sign and endorse the securities, and the Head Commissioner, if so directed by the Governor General in Council, may purchase securities of the Government of India to replace such sales.

Accounts of
interest on
securities.

24. (1) The interest accruing due on the securities purchased and held under this Act shall be entered in a separate account to be annually rendered by the Head Commissioner to the Governor General in Council.

(2) The amount of the interest shall, from time to time, as it becomes due, be paid to the credit of the Government of India, under the head of "Profits of Notes Circulation."

(3) An account showing the amount of the profits and of the charges and expenses incidental thereto shall be made up and published annually in the *Gazette of India*.

(VI.—*Private Bills payable to Bearer on Demand.* VII.—*Miscellaneous.*
Secs. 25-28.)

VI.—*Private Bills payable to Bearer on Demand.*

25. No body corporate or person in British India shall draw, accept, make or issue any bill of exchange, hundí, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundís or notes payable to bearer on demand, of any such body corporate or of any such person :

Prohibition of issue of private bills or notes payable to bearer on demand.

Provided that cheques or drafts payable to bearer on demand or otherwise may be drawn on bankers, shroffs or agents, by their customers or constituents, in respect of deposits of money in the hands of those bankers, shroffs or agents and held by them at the credit and disposal of the persons drawing such cheques or drafts.

26. (1) Any body corporate or person committing any offence under section 25 shall, on conviction before a Presidency Magistrate, or a Magistrate of the first class, be punished with a fine equal to the amount of the bill, hundí, note or engagement in respect whereof the offence is committed.

Penalty for issuing such bills or notes.

(2) Every prosecution under this section shall be instituted by the Head Commissioner, Commissioner or Deputy Commissioner, as the case may be, of Paper Currency for the Circle of Issue in which the bill, hundí, note or engagement is drawn, accepted, made or issued.

Prosecutions.

VII.—*Miscellaneous.*

27. An abstract of the accounts of the Department of Paper Currency, showing—

Monthly abstracts of accounts.

(a) the whole amount of currency notes in circulation,

(b) the amount of coin and bullion reserved, distinguishing gold from silver, and

(c) the nominal value of, and the price paid for, the Government securities held by the said Department,

shall be made up monthly by the Head Commissioner and published, as soon as may be, in the *Gazette of India*.

28. (1) The Governor General in Council may, from time to time, by notification in the *Gazette of India*,—

Supplementary powers of the Government of India.

(a) fix the amounts (not being less than five rupees) for which currency notes shall be issued :

(b) alter the limits of any of the Circles of Issue :

(c) declare the places at which currency notes shall be issued :

- (d) fix the rates, rules and conditions at and according to which gold may be taken in exchange for currency notes :
 - (e) fix the charge for melting and assaying bullion and foreign coin received for such notes :
 - (f) fix the interval on the expiration of which holders of certificates under section 15 shall be entitled to receive such notes :
 - (g) regulate any matters relative to paper currency which are not provided for by this Act : and
 - (h) revoke or alter any notification previously published under this Act.
- (2) Every notification under this section shall come into force on the day therein in that behalf mentioned, and shall have effect as if it were enacted in this Act :
- (3) Provided that no notification under clause (d) of this section shall have effect until six months have elapsed from the date of its appearance in the *Gazette of India*.

ACT No. II OF 1883.

Received the Governor General's assent on the 26th January, 1883.

An Act to amend the Elephants Preservation Act, 1879.

Preamble.

WHEREAS it is expedient to amend the Elephants Preservation Act, 1879, VI of 1879, in manner hereinafter appearing ; It is hereby enacted as follows :—

For section 4 of the said Act, the following shall be substituted, namely :—

Rights of Government with respect to certain elephants and tusks.

“ 4. Every wild elephant captured, and the tusks of every wild elephant killed, by any person not licensed under this Act, shall be the property of Government.”

ACT No. IV OF 1883.

Received the Governor General's assent on the 16th February, 1883.

An Act to amend the Indian Railway Act, 1879.

Preamble.

WHEREAS it is expedient to amend the Indian Railway Act, 1879, in manner hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Railway Act, 1883 ;

Commencement.

and it shall come into force at once.

2. For section 5 of the said Act the following sections shall be substituted, namely :—

New sections substituted for section 5 of Act IV of 1879.

“ 5. A Railway, or portion or extension of, or addition to, a Railway, shall not be opened for the public conveyance of passengers until the Railway Administration has given to the Governor General in Council notice in writing of the intention of opening the same, and until the Governor General in Council has by order sanctioned the opening of the same.

Railway when to be opened.

“ 5A. The Governor General in Council may from time to time appoint, by name or by virtue of their office, officers to be Inspecting-officers under this Act.

Governor General in Council may appoint Inspecting-officers. Sanction not to be given until after report by Inspecting-officer.

“ 5B. (1) The sanction referred to in section 5 shall not be given until an officer appointed under section 5A has, after inspection of the Railway, portion, extension or addition, as the case may be, reported to the Governor General in Council that in his opinion the opening of the same would not be attended with danger to the public using it.

“(2) Notwithstanding anything hereinbefore contained, the Governor General in Council may, in any particular case or in any particular class of cases, by special order, confer on any officer appointed under section 5A power to sanction the opening of a Railway, portion, extension or addition, if in the officer's opinion the opening of the same will not be attended with danger to the public using it.

“(3) In such case it shall not be necessary to make the report required by sub-section (1) ; but the Governor General in Council may by order cancel the sanction given under sub-section (2), or direct that the sanction shall be subject to such conditions as he thinks fit.

“(4) The sanction given under this section may be either absolute or subject to such conditions as the Governor General in Council, or the officer appointed under section 5A, as the case may be, thinks necessary for the safety of the public.

“(5) When sanction for the opening of any Railway, or portion or extension of, or addition to, any Railway is given subject to conditions, and the Railway Administration fails or neglects to fulfil, or comply with, those conditions, the sanction shall on the failure or neglect forthwith be deemed to be void, and the Railway, or portion, or extension, or addition, as the case may be shall not be used unless and until sanction is again obtained under this section for the opening thereof.

When alterations affecting safety of passengers are made in Railway, sanction to be again obtained for opening.
Powers of Inspector of Railways.

" 5C. If, after a Railway has been opened as hereinbefore provided, any portion of it is so altered by the Railway Administration as to cause danger to, or affect the safety of, passengers carried thereon, the portion so altered shall not be used for the public conveyance of passengers unless and until sanction is obtained, in accordance with the provisions of section 5B, for the opening of it.

" 5D. (1) Every officer appointed under section 5A shall, for the purpose of the inspection, be deemed to be a public servant within the meaning of the Indian Penal Code, and shall, subject to the control of the Governor General in Council, have the following powers, namely :— XLV of 1860.

" (a) he may enter on and inspect any Railway or portion thereof which has been opened for the public conveyance of passengers, or any rolling-stock used thereon ;

" (b) he may, by an order in writing under his hand, require the attendance of any Railway-servant whom he thinks fit to call before him and examine for the said purpose, and may require any such servant to answer, or furnish returns regarding, such inquiries for the said purpose as he thinks fit to make ;

" (c) he may require and enforce the production of all books, papers and documents belonging to or in the possession of any Railway Administration which in his opinion are necessary for the said purpose.

" (2) Every Railway Administration whose Railway or rolling-stock is being inspected under this Act shall afford all reasonable facilities for making the inspection to the officer making it.

Governor General in Council empowered to close Railway.

" 5E. When, after inspecting any Railway or portion of a Railway, or any rolling-stock used thereon, any officer appointed under section 5A reports to the Governor General in Council that in his opinion the use of the Railway or portion or of any specified rolling-stock will be attended with danger to the public using it, the Governor General in Council may, by order, direct that the Railway or portion be closed for the public conveyance of passengers, or that the rolling-stock so specified shall no longer be used, as the case may be.

Re-opening of Railway.

" 5F. (1) When a Railway or portion of a Railway has been closed under section 5E, it shall not be re-opened for the public conveyance of passengers unless and until it has been inspected, and its opening sanctioned, in accordance with the provisions of section 5B.

" (2) When the Governor General in Council has directed under section 5E that any rolling-stock shall not be used, the rolling-stock shall not be used

unless and until an officer appointed under section 5A reports that it is fit for use and the Governor General in Council sanctions its use."

IV of 1879. 3. In section 8 of the said Act, in clause (d), the word "and" shall be omitted, and after clause (d) the following clause shall be, and be deemed to have always been, inserted:—

"(dd) for regulating the conduct of the Railway-servants, and".

IV of 1879. 4. For section 21 of the said Act the following section shall be substituted:—

Amendment of, and addition to, section 8 of Act IV of 1879.

New section to be substituted for section 21 of Act IV of 1879.

"21. Any Railway Administration opening or using, in contravention of section 5, section 5B, or section 5C, any Railway, or any portion or extension of, or addition to, a Railway, or keeping, in contravention of an order of the Governor General in Council under section 5E, any Railway or portion thereof open, or re-opening, in contravention of section 5F, sub-section (1), any Railway or portion thereof, or using, in contravention of section 5F, sub-section (2), any rolling-stock, shall forfeit to Government the sum of one thousand rupees for every day during which the Railway, portion, extension or addition remains open or is used in contravention of any of those sections or of the order of the Governor General in Council, as the case may be, or during which the rolling-stock is so used."

Penalty for opening or re-opening Railway in contravention of sections 5 and 5F, and keeping open after order under section 5E.

THE INDIAN MERCHANT SHIPPING ACT, 1883.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
Extent.
Commencement.
2. Repeal of enactments.
3. Definitions.
4. Saving and provision as to powers for removal of master.

CHAPTER II.

INVESTIGATIONS INTO SHIPPING CASUALTIES.

SECTIONS.

5. Chapter not to apply to certain ships.
 6. Report of casualties to be made to Local Government.
 7. Power for Local Government to appoint special Court of Investigation.
 8. Power for other Courts to hold investigations into casualties when so directed.
 9. Power for Court of Investigation to inquire into charges against masters, mates and engineers.
 10. Power for Local Government to direct investigation into charges of incompetency or misconduct.
 11. Person accused to be heard.
 12. Powers of Courts as to evidence and regulation of proceedings.
 13. Assessors.
 14. Power to arrest witnesses and cause entry and detention of vessels.
 15. Power to commit for trial and bind over witnesses.
 16. Depositions.
 17. Report by Court to Local Government.
-

CHAPTER III.

SUSPENSION AND CANCELLATION OF CERTIFICATES AND GRANT OF FRESH CERTIFICATES.

18. Saving of power to cancel and suspend certificates under English Acts.
 19. Power to issue local certificates in lieu of cancelled or suspended certificates.
 20. Power for Local Government to suspend or cancel certificates in certain cases.
 21. Obligation to deliver up cancelled or suspended certificate.
 22. Report to other Local Governments.
 23. Report to Board of Trade.
 24. Power to revoke cancellation or suspension and grant new certificate.
-

CHAPTER IV.

AGREEMENTS WITH SEAMEN.

25. Chapter to be read with Act I of 1859.
26. Masters to enter into agreements with seamen.
27. Form and contents of agreement.
28. Scale of provisions to be furnished to lascars.
29. Stipulation where lascars are shipped.
30. Forms for British or Colonial ships.

(Chapter I.—Preliminary. Secs. 1-2.)

CHAPTER V.

HEALTH-OFFICERS.

SECTIONS.

31. Addition to Act XII of 1875.

CHAPTER VI.

MISCELLANEOUS.

32. Power to appoint persons to sue.
 33. Proceedings to be instituted in name of Secretary of State for India in Council.
 34. Amendment of section 10 of Act I of 1859.
 35. Addition to section 11 of Act I of 1859.
 36. Amendment of section 79 of Act I of 1859.
 37. Provisions as to examinations, &c., of masters not to apply to certain ships.
 38. Amendment of Act X of 1841, sections 2, 15, 17 and 23.

ACT No. V OF 1883.

Received the Governor General's assent on the 23rd February, 1883.

An Act for the further amendment of the law relating to Merchant Shipping.

WHEREAS it is expedient to amend the law relating to investigations into casualties affecting ships and charges against masters, mates and engineers ;

and whereas it is also expedient to provide, in other respects hereinafter appearing, for the regulation and control of Merchant Shipping ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Merchant Shipping Act, 1883. Short title.
 (2) It extends to the whole of British India ; Extent.
 (3) and it shall come into force on the first day of January, 1884. Commence-

IV of 1875.

XIII of 1878.

2. (1) The Indian Merchant Shipping Act, 1875, and Act XIII of 1878
 (an Act to provide for the recovery in British India of wages due to, and expenses
 incurred in respect of, certain seamen and apprentices, and to amend the Indian

ment.
Repeal of
enactments.

(Chapter II.—Investigations into Shipping Casualties. Secs. 3-6.)

Merchant Shipping Act, 1875, and the Indian Ports Act, 1875), are hereby repealed.

(2) But all proceedings commenced, officers appointed, powers conferred, investigations held, certificates cancelled or suspended, agreements made and persons authorized under the said Acts or either of them shall be deemed to have been respectively commenced, appointed, conferred, held, cancelled or suspended, made and authorized under this Act.

Definitions.

3. In this Act—

“ship” includes every description of vessel used in navigation not propelled by oars; and

“master” means any person (except a pilot or harbour-master) having for the time being control or charge of a ship.

Saving and provision as to powers for removal of master.

4. (1) Nothing in this Act shall affect the powers conferred by section 240 of the Merchant Shipping Act, 1854, or by section 80 of Act I of 1859 (*for the amendment of the law relating to Merchant Shipping*) on Courts having admiralty jurisdiction in India. 17 & 18 Vic., c. 104. I of 1859.

(2) The powers conferred by the last-mentioned enactment may, at any port in British India where there is no Court having admiralty jurisdiction, be exercised by the principal Court of ordinary criminal jurisdiction at that port. I of 1859.

CHAPTER II.

INVESTIGATIONS INTO SHIPPING CASUALTIES.

Chapter not to apply to certain ships.

5. Nothing in this chapter shall apply to any ship belonging to, or in the service of, Her Majesty or of the Government of India, or belonging to any foreign Prince or State.

Report of casualties to be made to Local Government.

6. (1) Whenever any Magistrate, or any officer appointed by the Local Government in this behalf, receives credible information that—

- (a) any ship has been lost, abandoned, stranded or materially damaged on or near the coasts of British India; or
- (b) by reason of any casualty happening to, or on board of, any ship on or near those coasts, loss of life has ensued; or
- (c) any ship has caused loss or material damage to any other ship on or near those coasts; or
- (d) any such loss, abandonment, stranding, damage or casualty has happened elsewhere to, or on board of, any British ship, and any competent witnesses thereof have arrived or are to be found at any place in British India; or

(Chapter II.—Investigations into Shipping Casualties. Secs. 7-9.)

(e) any British ship is supposed to have been lost, and any evidence can be obtained in British India as to the circumstances under which she proceeded to sea or was last heard of;

he shall forthwith report in writing the information to the Local Government.

(2) In the cases mentioned in clauses (a), (b) and (c), the master, pilot, harbour-master or other person in charge of the ship, or (where two ships are concerned) in charge of each ship, at the time of the loss, abandonment, stranding, damage or casualty, and

in cases under clause (d), where the master of the ship concerned, or (except in the case of a loss) where the ship concerned, proceeds to any place in British India from the place where the loss, abandonment, stranding, damage or casualty has occurred, the master of the ship,

shall, on arriving in British India, give immediate notice of the loss, abandonment, stranding, damage or casualty to the nearest Magistrate, or, when he arrives at a port in British India, to the officer appointed as aforesaid at that port.

(3) Any person bound to give notice under this section and wilfully failing to give the same shall be punished with fine which may extend to five hundred rupees, and in default of payment to simple imprisonment for a term which may extend to three months.

7. (1) If in any such case a formal investigation into the facts mentioned in section 6, clause (a), (b), (c), (d) or (e), appears to the Local Government to be requisite or expedient, the Local Government (whether the notice is given or not) may appoint a special Court, consisting of not less than two nor more than four persons, and direct that Court to make the investigation, and may fix the place for making the same.

Power for Local Government to appoint special Court of Investigation.

(2) One of the members of the Court shall be a Magistrate acting in or near the place where the investigation is made; another shall be some person conversant with maritime affairs; and the other or others (if any) shall be conversant with either maritime or mercantile affairs.

8. Every Court having admiralty jurisdiction in British India, and the principal Court of ordinary criminal jurisdiction at every port of British India where there is no Court having admiralty jurisdiction, is hereby authorized, when so directed by the Local Government, to make the investigations referred to in section 7.

Power for other Courts to hold investigations into casualties when so directed.

9. (1) Any Court making an investigation under section 7 or section 8 may inquire into any charge of incompetency or misconduct arising, in the

Power for Court of Investigation

(Chapter II.—Investigations into Shipping Casualties. Secs. 10-13.)

to inquire into charges against masters, mates and engineers.

course of the investigation, against any master, mate or engineer, as well as into any charge of a wrongful act or default on his part causing any such loss, abandonment, stranding, damage or casualty as aforesaid.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default, as aforesaid, arises against any master, mate or engineer in the course of an investigation, the Court shall, before the commencement of the inquiry, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

Power for Local Government to direct investigation into charges of incompetency or misconduct.

10. (1) If the Local Government has reason to believe that there are grounds for charging any master, mate or engineer, holding a certificate granted by the Board of Trade or a Local Government, with incompetency or misconduct, otherwise than in the course of an investigation under section 7 or section 8, it may transmit a statement of the case to any Court mentioned in section 8, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct that Court to make an investigation into that charge.

(2) Before commencing the investigation the Court shall cause the master, mate or engineer so charged to be furnished with a copy of the statement transmitted by the Local Government.

Person accused to be heard.

11. For the purpose of an investigation under this chapter into any charge against a master, mate or engineer, the Court may summon him to appear, and shall give him full opportunity of making a defence either in person or otherwise.

Powers of Courts as to evidence and regulation of proceedings.

12. For the purpose of any investigation under this chapter the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have—

- (a) if the Court is a special Court—the same powers as are exerciseable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;
- (b) if the Court is a Court having admiralty jurisdiction, or a principal Court of ordinary criminal jurisdiction—the same powers as are exerciseable by that Court in the exercise of its admiralty or criminal jurisdiction (as the case may be).

Assessors

13. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the Court making the investigation shall constitute as its assessors for the purpose of the investigation two persons having experience in the

(Chapter II.—Investigations into Shipping Casualties. Secs 14-16.)

Merchant Service; and in every other investigation the Court making it may if it thinks fit, constitute as its assessor for the purposes of the investigation any person conversant with maritime affairs and willing to act as its assessor.

(2) The assessors shall attend during the investigation and deliver their opinions in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act or any other enactment for the time being in force shall rest with the Court.

14. (1) If any Court making an investigation under this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel.

Power to arrest witnesses and cause entry and detention of vessels.

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code, section 186.

XLV of 1860.

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

15. (1) Whenever, in the course of any such investigation, it appears that any person has committed within the jurisdiction of any Court in British India an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may from time to time prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court, and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

Power to commit for trial and bind over witnesses.

(2) For the purposes of this section the Recorder of Rangoon shall, within the local limits of his ordinary civil jurisdiction, be deemed to be the High Court.

16. (1) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof—

Depositions.

(a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and

(Chapter III.—*Suspension and Cancellation of Certificates and Grant of fresh Certificates. Secs. 17-19.*)

(b) that it was made in the presence of the person accused and that he had an opportunity of cross-examining the witness.

(2) A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused and that he had that opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made and that he had that opportunity.

Report by
Court to
Local Gov-
ernment.

17. (1) The Court shall, in the case of all investigations under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

(2) In cases in which, under the Merchant Shipping Acts, 1854 to 1882, the Court is required to send a report to the Board of Trade, the report shall be sent through the Local Government, and the transmission of the report to the Local Government shall be a sufficient compliance with this section.

17 & 18 Vic.
cap. 104, &c.

CHAPTER III.

SUSPENSION AND CANCELLATION OF CERTIFICATES AND GRANT OF FRESH CERTIFICATES.

Saving of
power to
cancel and
suspend
certificates
under
English Acts.

18. Nothing in this Act shall affect the powers conferred by the Merchant Shipping Acts, 1854 to 1882, on the Courts conducting investigations under sections 7, 8, 9 and 10 of this Act, to cancel or suspend certificates granted under any of the said Merchant Shipping Acts, or certificates to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

17 & 18 Vic.
cap. 104, &c.

Power to
issue local
certificates
in lieu of
cancelled or
suspended
certificates.

19. (1) When any such Court cancels or suspends any such certificate, the Local Government may, if it thinks fit, and if it is so empowered by any enactment of a British Indian legislature for the time being in force, grant under that enactment, but without examination, to the holder of the certificate, when the certificate is a certificate as master, a certificate as mate, and, when the certificate is a certificate as mate or engineer, a certificate as mate or engineer, as the case may be, of a grade lower than that which he held at the time of the cancellation or suspension.

32 & 33 Vic
cap. 11.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under that Act.

32 & 33 Vic
cap. 11.

(Chapter III.—*Suspension and Cancellation of Certificates and Grant of fresh Certificates.* Sec. 20)

(3) The Local Government may act under this section either in pursuance of a recommendation from the Court or of its own motion.

32 & 33 Vic.,
cap 11

20. Any certificate (whether of competency or service) which has been granted by any Local Government to any master, mate or engineer, but has not been granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act, may be suspended or cancelled, by that or any other Local Government, in the following cases, that is to say :—

Power for
Local Gov-
ernment to
suspend or
cancel certi-
ficates in
certain cases

17 & 18 Vic.,
cap 101, &c

- (a) if, on any investigation made under this Act, the Court reports that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct ;
- (b) if, on any investigation made under the Merchant Shipping Acts, 1854 to 1882, or on any investigation made by any Court or tribunal for the time being authorized by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters, mates or engineers of ships, or as to shipwrecks or other casualties affecting ships, the Court or tribunal reports that the master, mate or engineer is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that the loss, stranding or abandonment of, or damage to, any ship, or loss of life, has been caused by his wrongful act or default ;
- (c) if he is proved to have been convicted of any offence which, if committed in British India, would be non-bailable, or, if committed in England, would be a felony ; and
- (d) if (in case of a master) he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act, 1854, or by any other law for the time being in force :

17 & 18 Vic.,
cap 101.

Provided that, in any case in which an investigation has been made into a charge against any master, mate or engineer, a certificate shall not be suspended or cancelled under clause (a) unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section 9 or section 10, as the case may be.

(Chapter IV.—Agreements with Seamen. Secs. 21-27.)

Obligation to deliver up cancelled or suspended certificate.

21. Every master, mate or engineer whose certificate is cancelled or suspended under section 20 shall deliver it to the Shipping Master or to such other person as the Local Government which cancelled or suspended the certificate directs, and in default of such delivery shall, for each offence, be punished with fine which may extend to five hundred rupees.

Report to other Local Governments.

22. If the Local Government which cancels or suspends, under section 20, a certificate of a master, mate or engineer is not the Local Government that granted the same, the Local Government so cancelling or suspending the certificate shall report the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

Report to Board of Trade.

23. Every Local Government cancelling or suspending under section 20 the certificate of a master, mate or engineer shall, as soon as may be practicable, report to the Board of Trade the fact of such cancellation or suspension.

* Power to revoke cancellation or suspension and grant new certificate.

24. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section 20, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate of the same or of any lower grade.

(2) A certificate so granted shall have the same effect as if it had been granted after examination, but shall not have the effect of a certificate granted under the provisions of the Merchant Shipping (Colonial) Act, 1869, or of any Order in Council under the said Act. 32 & 33 Vic. cap. 11.

(3) A certificate of competency for a Home trade ship under Act I of 1859 shall be deemed, for the purposes of this section, to be of a lower grade than a certificate of competency for a foreign-going ship under the same Act. I of 1859.

CHAPTER IV.

AGREEMENTS WITH SEAMEN.

Chapter to be read with Act I of 1859.

25. This chapter shall be read with, and taken as part of, Act I of 1859. I of 1859.

Masters to enter into agreements with seamen.

26. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every seaman whom he engages in, and carries to sea from, any port in British India as one of his crew, in the manner hereinafter mentioned.

Form and contents of agreement.

27. (1) Every such agreement shall be in a form sanctioned by the Governor General in Council, and shall be dated at the time of the first signature

(Chapter IV.—Agreements with Seamen. Secs. 28-29.)

thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, that is to say:—

- (a) either the nature and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement, and the places or parts of the world, if any, to which the voyage or engagement is not to extend;
- (b) the number and description of the crew, specifying how many are engaged as sailors;
- (c) the time at which each seaman is to be on board or to begin work;
- (d) the capacity in which each seaman is to serve;
- (e) the amount of wages which each seaman is to receive;
- (f) a scale of the provisions which are to be furnished to each seaman; and
- (g) any regulations as to conduct on board, and as to fines, short allowance of provisions or other lawful punishments for misconduct, which have been sanctioned by the Governor General in Council as regulations proper to be adopted, and which the parties agree to adopt.

(2) Every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of any enactment for the time being in force relating to Merchant Shipping) as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law.

28. (1) In the case of such agreements with lascars or other Native seamen, the scale of the provisions agreed to be furnished to each of such seamen shall not be less than a scale to be from time to time fixed and published by the Local Government with the previous sanction of the Governor General in Council.

Scale of provisions to be furnished to lascars.

(2) Any master entering into an agreement with any lascar or other Native seaman for a scale of provisions less than the scale so fixed and published shall be punished with fine which may extend to two hundred rupees.

29. (1) Whenever it is agreed that the service of any lascar or other Native seaman shall end at any port not in British India, the agreement shall, in addition to the particulars specified in section 27, contain a stipulation that fit employment shall be provided for him on board some other ship bound to the port at which he was shipped, or such other port in British India as may be agreed on; or

Stipulation where lascars are shipped.

that a passage shall be provided for him to some port in British India free of charge, or on such other terms as may be agreed on.

(Chapter V.—Health-officers. Secs. 30-31.)

(2) Every such stipulation shall be signed by the owner of the ship, or the master on his behalf.

(3) In this section the word "seaman" shall include also any Native of British India carried to sea from any port in British India as one of the crew of a ship.

Forms for
British or
Colonial
ships.

30. If the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which the ship belongs, or in which her crew were engaged, and engages a single seaman, not being a lascar or other Native seaman, in any port in British India, the seaman may sign the agreement so made, and it shall not be necessary for him to sign an agreement under this Act.

CHAPTER V.

HEALTH-OFFICERS.

Addition to
Act XII
of 1875.

Appoint-
ment and
powers of
Health-
officer.

31. In the Indian Ports Act, 1875, after section 18, the following section shall be inserted, that is to say :—

XII of 1875

"18A. The Local Government may, from time to time, appoint, at any port subject to this Act, an officer to be called the Health-officer, and may suspend or remove from office any officer so appointed.

"A Health-officer shall, subject to the control of the Local Government, have the following powers within the limits of the port for which he is appointed, that is to say :—

"(a) with respect to any ship, the powers conferred on a Shipping Master by Act I of 1859, section 71 ;

I of 1859.

"(b) power to enter on board any ship and medically examine all or any of the seamen or apprentices on board the ship ;

"(c) power to require and enforce the production of the log-book and any other books, papers or documents which he thinks necessary for the purpose of enquiring into the health and medical condition of the persons on board the ship ;

"(d) power to call before him and examine for any such purpose all or any of those persons, and to require answers to any inquiries he thinks fit to make ;

"(e) power to require any person so examined to make and subscribe a declaration of the truth of the statements made by him."

CHAPTER VI.

MISCELLANEOUS.

7 & 18 Vic.,
ap. 104.
8 & 19 Vic.,
ap. 91.

32. (1) Where any wages or expenses recoverable under section 213 of the Merchant Shipping Act, 1854, or under section 16 of the Merchant Shipping Act Amendment Act, 1855, are, under the same sections, a charge upon any ship, or recoverable from any master, owner or other person, within the jurisdiction of any Court in British India, the Governor General in Council may, from time to time, by notification in the *Gazette of India*, authorize, either generally or specially, such persons as he thinks fit to sue for and recover, in manner in the Merchant Shipping Act, 1854, section 213, provided, those wages or expenses.

Power to
appoint persons
to sue.

7 & 18 Vic.,
ap. 104.

(2) Every person so authorized shall be entitled to sue and recover accordingly in any such Court, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause (7).

of 1872.

33. All suits and proceedings under section 32 shall be instituted and carried on in the name of the Secretary of State for India in Council.

Proceedings
to be instituted
in name of
Secretary of
State for
India in
Council.

[of 1859.

34. In section 10 of Act I of 1859, for the words "Fees at the following rates shall be paid by all applicants for examination :—

For a certificate as master ten rupees.

Ditto ditto as mate five „ „

the following shall be substituted, namely:—"Fees at such rates as the Local Government may, from time to time, with the previous sanction of the Governor General in Council, fix in this behalf shall be paid by all applicants for examination."

Amendment
of section 10
of Act I of
1859.

[of 1859.

35. To section 11 of Act I of 1859 the following shall be added, namely:—

Addition to
section 11 of
Act I of
1859.

" Provided that the Local Government may, in any case in which it has reason to believe that such report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character."

[of 1859.

36. For the last fifteen words of section 79 of Act I of 1859, the following shall be substituted, namely :—"punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both."

Amendment
of section 79
of Act I of
1859.

Bombay Port-dues.

Protection of Inventions.

Provisions as to examinations, &c., of masters not to apply to certain ships.

Amendment of Act X of 1841, sections 2, 15, 17 and 23.

37. Sections 9 to 16 (both inclusive) of Act I of 1859 shall not apply to I of 1859, ships registered under Act X of 1841 and trading between ports in India and X of 1841. the coasts of Arabia, when such ships are navigated and manned exclusively by Arabs, lascars or other Asiatic masters and seamen.

38. In sections 2, 15, 17 and 23 of the said Act X of 1841, for the words X of 1841. "on information in any Court of Her Majesty or the East India Company by the Advocates General of the respective Presidencies," "by information as aforesaid," "on information as aforesaid," "upon information as aforesaid" in each of the places where they occur, the following words shall be substituted, namely :—"on conviction before a Presidency Magistrate or a Magistrate of the first class."

ACT No. XI OF 1883.

Received the Governor General's assent on the 25th July, 1883.

An Act to give power to reduce port-dues in the port of Bombay.

WHEREAS the rate of port dues* leviable under the Indian Ports Act, XII of 1875. 1875, on vessels entering the port of Bombay cannot, consistently with the entry in the third column of the first schedule of that Act in respect of the said port, be fixed at less than two annas per ton; and whereas, having regard to the present receipts and charges on account of that port, the rate of two annas per ton is unnecessarily high, and it is not expedient that a limit should be placed to the reduction of port-dues in the said port; It is hereby enacted as follows :—

In the Indian Ports Act, 1875, first schedule, for the first entry in the XII of 1875. third column in respect of the port of Bombay, the following shall be substituted :—

"Not exceeding four annas per ton for each class of vessels as the Trustees incorporated under the Bombay Port Trust Act, 1879, may, from time to time, Bo. VI of 1879. direct."

ACT No. XVI OF 1883.

Received the Governor General's assent on the 4th October, 1883.

An Act for the protection of Inventions exhibited in the Exhibitions of India.

WHEREAS it is expedient that such protection as is hereinafter mentioned should be afforded to the inventors of new manufactures who are desirous of

(Sec. 1.)

exhibiting them at Exhibitions to be held in India; It is hereby enacted as follows:—

1. (1) This Act may be called the Protection of Inventions Act, 1883 ; Short title.
- (2) And it shall come into force at once. Commence-
ment.
2. It shall be read with, and taken as part of, Act XV of 1859 (*for granting exclusive privileges to inventors*). Act to be
read with Act
XV of 1859.
3. If within six months from the time of the opening of an Exhibition, a person, being the inventor and exhibitor of any manufacture exhibited at that Exhibition, petitions the Governor General in Council, under Act XV of 1859, for leave to file a specification of his invention, the circumstance that the invention has at any time after the opening of the Exhibition been publicly used or made publicly known shall not prevent the invention being deemed to have been at the time of presenting the petition a new invention for the purposes of the said Act. Inventions
exhibited
when to be
deemed new
though pub-
licly used or
made publicly
known.
4. In this Act, "Exhibition" means the International Exhibition to be held in the years 1883 and 1884 at Calcutta, and any Exhibition to be held in India which the Governor General in Council may, on the application of any persons desirous of holding the Exhibition, by notification in the *Gazette of India*, declare to be, in the judgment of the Governor General in Council, calculated to promote Indian art or industry, and to prove beneficial to the mercantile, agricultural or industrial classes of Her Majesty's subjects in India. *Meaning of
term "Exhi-
bition."

ACT No. XVII of 1883.

Received the Governor General's assent on the 4th October, 1883.

An Act to amend the Native Passenger Ships Act, 1876.

WHEREAS it is expedient to amend the Native Passenger Ships Act, 1876, with a view to provide for the better regulation of the passenger-traffic between British India and ports in the Red Sea; It is hereby enacted as follows:—

1. (1) This Act may be called the Native Passenger Ships Act, 1883 ; Short title.
- and
- (2) It shall come into force on such day as the Governor General in Council directs by notification in the *Gazette of India*.^a Commence-
ment.

^a Came into force on the 1st April, 1884,—see *Gazette of India*, 16th February, 1884, Part I, page 43.

(Secs 2-6.)

Addition to
section 11 of
the Native
Passenger
Ships Act,
1876.

2. After clause (e) of section 11 of the Native Passenger Ships Act, 1876, VIII of 1876. the following clause shall be added :—

“(ee) in the case of any ship sailing to any port in the Red Sea, that she is propelled principally by steam, and, if she is carrying more than one hundred passengers being Natives of Asia or Africa, that she has on board a medical officer licensed in accordance with rules made under this Act.”

Substitution
of new sec-
tion for sec-
tion 26 of
same Act.

3. For section 26 of the same Act the following section shall be substituted :—

Bond where
ship clears
for port in
Red Sea.

“26. In the case of every ship sailing from any port in British India to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for any such ship shall not grant the clearance unless and until the owner, agent or master of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and separate bond, for the sum of Rs. 5,000, conditioned—

“(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers; and

“(b) that the master and medical officer (if any) of the ship shall comply with on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships sailing between ports in British India and ports in the Red Sea as the Governor General in Council may, from time to time, make under section 46.”

Amendment
of section 27
of same Act.

4. In section 27 of the same Act, for the word “thirty” the word “sixty” shall be substituted.

Addition to
section 28 of
same Act.

5. To section 28 of the same Act the following words shall be added :—
“and the authority empowered to grant the same may refuse to grant a bill of health in the case of any ship on board of which the requirements of the rules made under section 46 are not complied with.”

Addition of
new sections
after section
28 of same
Act.

6. After section 28 of the same Act the following sections shall be added :—

Certain ships
to carry
medical
officer.

“28A. Every ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers being Natives of Asia or Africa shall have on board a medical officer licensed in accordance with rules made under this Act.

(Secs. 7-8.)

"28B. Every ship sailing from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships to be propelled by steam.

"28C. (1) The Local Government may, from time to time, direct that no passenger shall be received on board any ship or any ship of a specified class sailing from any port in British India to any port in the Red Sea unless and until he has been inspected, at such time and place as the Local Government may fix in this behalf, by a medical officer to be appointed by the Local Government in this behalf.

Power for Local Government to direct medical inspection of passengers.

"(2) If, in the opinion of the officer making an inspection under this section, a passenger is suffering from any dangerously infectious or contagious disease the passenger shall not be permitted to embark."

of 1876. 7. After section 38 of the same Act the following sections shall be added :—

Addition of new sections after section 38 of same Act.

"38A. If the master of any such ship as is referred to in section 27, or any medical officer in charge of any such ship, wilfully breaks, or omits or neglects to obey, any rule with regard to those ships made under section 46, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

"38B. If any ship sailing from or to any port in British India to or from any port in the Red Sea and carrying more than one hundred passengers has not on board a medical officer as required by section 28A, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

"38C. If any ship sailing from or to any port in British India to or from any port in the Red Sea is not principally propelled by steam, the owner and master shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on owner and master of certain ships not propelled by steam.

"38D. If the master of any ship, while a direction under section 28C is in force, knowingly receives on board his ship any person in contravention of that section or of the direction, he shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees for each person so received, or with both."

Penalty on master receiving passenger in contravention of section 28C.

8. After clause (b) of section 46 of the same Act the following clause shall be added :—

Additions to section 46 of same Act.

"(bb) the licensing and appointment of medical officers in cases where they are required, under this Act, to be carried ;"

Cattle-trespass.

and after clause (e) of the same section the following clauses shall be added :—

“(ee) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;

“(eee) the access of intermediate or between decks passengers to the upper deck.”

New section
added to
same Act.

9. To the same Act the following section shall be added, namely :—

VIII of 1876.

Power to
exempt ship
from provi-
sions of Act.

“50. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, for any special reason and subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.”

ACT No. XVIII OF 1883.

Received the Governor General's assent on the 11th October, 1883.

An Act to amend the Cattle-trespass Act, 1871.

WHEREAS it is expedient to amend the Cattle-trespass Act, 1871; It is hereby enacted as follows :—

Power for
Local Gov-
ernment to
transfer
functions of
District
Magistrate
or Local
Government
to local
authority, and
direct that
surplus re-
ceipts be
credited to
local fund.

1. The Local Government may, from time to time, by order notified in the local official Gazette,—

(a) transfer to any local authority, within any part of the territories under its administration in which the Cattle-trespass Act, 1871, is in operation, all or any of the functions of the Local Government or the Magistrate of the district under that Act, within the local area subject to the jurisdiction of the local authority ; or

(b) direct that the whole or any part of the surplus accruing in any district under section 18 of that Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district ;

and may, from time to time, in like manner, cancel any order made under this section.

Definitions.

2. In this Act—

“local authority” means any body of persons for the time being invested by law with the control and administration of any matters within a specified local area ; and

“local fund” means any fund under the control or management of a local authority.

I of 1871.

I of 1871.

ACT No. XIX OF 1883.

Received the Governor General's assent on the 12th October, 1883.

An Act to consolidate and amend the law relating to loans of money by the Government for agricultural improvements.^a

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government for agricultural improvements; It is hereby enacted as follows:—

1. (1) This Act may be called the Land Improvement Loans Act, 1883. Short title.

(2) It extends to the whole of British India, but shall not come into force in any part of British India until such date as the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the local official Gazette, appoint in this behalf.^b Local extent.
Commence-
ment.

XXVI of
1871.

XXI of 1876.

2. (1) The Land Improvement Act, 1871, and Act XXI of 1876 (*An Act to amend the Land Improvement Act, 1871*) shall, except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government in respect of such advances, be repealed. Acts XXVI
of 1871 and
XXI of 1876
repealed.

(2) When in any Act, Regulation or Notification passed or issued before this Act comes into force reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

3. In this Act, "Collector" means the Collector of land-revenue of a district, or the Deputy Commissioner, or any officer empowered by the Local Government by name or by virtue of his office to discharge the functions of a Collector under this Act. "Collector"
defined.

4. (1) Subject to such rules as may be made under section 10, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Local Government, for the purpose of making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person. Purposes for
which loans
may be
granted
under this
Act.

(2) "Improvement" means any work which adds to the letting value of land, and includes the following, namely:—

(a) the construction of wells, tanks and other works for the storage, supply

^a Instruments executed by persons taking loans, or by their sureties, as security for the repayment of such loans, are exempted from stamp-duty—see Act I of 1879, Schedule II, Article 12, and section 2 (2) of this Act.

^b Came into force in the Lower Provinces of Bengal on the 1st December, 1884—see *Calcutta Gazette*, 19th November, 1884, Part I, page 1137; in the Panjáb, on the 1st June, 1885—see *Panjáb Gazette*, 4th June, 1885, Part I, page 378.

(Secs. 5-6.)

or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture ;

- (b) the preparation of land for irrigation ;
- (c) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste-land which is culturable ;
- (d) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes ;
- (e) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto, and
- (f) such other works as the Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the local official Gazette, declare to be improvements for the purposes of this Act.

Mode of
dealing with
applications
for loans.

5. (1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Local Government may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections.

(2) The officer shall consider every objection submitted under sub-section (1), and make an order in writing either admitting or overruling it :

Provided that, when the question raised by an objection is, in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

Period for
repayment
of loans.

6. (1) Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise), within such period from the date of the actual advance of the loan, or, when the loan is advanced in instalments, from the date of the actual advance of the last instalment, as may, from time to time, be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Local Government and Governor General in Council, in making and sanctioning the rules fixing the period, shall, in considering whether the period should extend to thirty-five years, or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work

being paid by the generation of persons who will immediately benefit by the work.

7. (1) Subject to such rules as may be made under section 10, all loans granted under this Act, all interest (if any) chargeable thereon, and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely:—

Recovery of loans.

- (a) from the borrower—as if they were arrears of land-revenue due by him;
- (b) from his surety (if any)—as if they were arrears of land-revenue due by him;
- (c) out of the land for the benefit of which the loan has been granted—as if they were arrears of land-revenue due in respect of that land;
- (d) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land-revenue by the sale of immoveable property other than the land on which that revenue is due:

Provided that no proceeding in respect of any land under clause (c) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section 4 with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property comprised in any collateral security, or is recovered under sub-section (1) by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-section (1).

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the

Order granting loan conclusive on certain points.

(Secs. 9-11.)

benefit of land specified therein, shall, for the purposes of this Act, be conclusive evidence—

- (a) that the work described is an improvement within the meaning of this Act^a;
- (b) that the person mentioned had at the date of the order a right to make such an improvement; and
- (c) that the improvement is one benefiting the land specified.

Liability of
joint borrow-
ers as among
themselves.

9. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Power to
make rules.

10. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the local official Gazette, make rules consistent with this Act to provide for the following matters, namely :—

- (a) the manner of making applications for loans;
- (b) the officers by whom loans may be granted;
- (c) the manner of conducting inquiries relative to applications for loans, and the powers to be exercised by officers conducting those inquiries;
- (d) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which and the conditions under which loans may be granted, and the manner and time of granting loans;
- (e) the inspection of works for which loans have been granted;
- (f) the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof, shall be paid;
- (g) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and
- (h) all other matters pertaining to the working of the Act.

Exemption
of improve-
ments from

11. When land is improved with the aid of a loan granted under this Act,

^a See section 4 (2), *supra*.

(*Sec. 12.*)

* *Emigration.*

the increase in value derived from the improvement shall not be taken into account in revising the assessment of land-revenue on the land :

assessment
to land-
revenue.

Provided as follows :—

(1) Where the improvement consists of the reclamation of waste-land, or of the irrigation of land assessed at unirrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the Local Government with the approval of the Governor General in Council :

(2) Nothing in this section shall entitle any person to call in question any assessment of land-revenue otherwise than as it might have been called in question if this Act had not been passed.

12. (1) In the Indian Registration Act, 1877, section 17, clause (1), for the word “ certificates ” the words “ orders granting loans ” shall be substituted.

Registration
Act amended.

(2) In the same Act, section 58, for the words “ a certificate ” the words “ an order ” shall be substituted.

(3) In the same Act, section 89, first clause,—

(a) for the words “ a certificate ” the words “ a loan ”, and

(b) for the words “ such certificate ” the words “ his order ”, shall be substituted.

THE INDIAN EMIGRATION ACT, 1883.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
2. Exemption of Government vessels.
3. Commencement.
4. Repeal of enactments.
5. Saving for proceedings under repealed enactments.
6. Definitions.

CHAPTER II.

PORTS FROM WHICH, AND COUNTRIES TO WHICH, EMIGRATION IS LAWFUL.

7. Ports from which emigration is lawful.
8. Countries to which emigration is lawful.

SECTIONS.

9. Power for Governor General in Council to prohibit emigration to any country.
 10. Power for Local Government to suspend emigration pending reference to Governor General in Council.
 11. Revocation of prohibition.
 12. Power for Local Government to prohibit emigration to specified country from the whole or any specified part of its territories.
 13. Saving for acts done before publication of notification.
-

CHAPTER III.

EMIGRATION AGENTS.

14. Appointment of Emigration Agents.
 15. Remuneration of Agents.
-

CHAPTER IV.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

16. Appointment of Protectors of Emigrants.
 17. General duties of Protector.
 18. Appointment of Medical Inspector.
 19. Protector and Medical Inspector to have facilities for inspection.
-

CHAPTER V.

RECRUITERS.

20. Protector of Emigrants to license recruiters.
 21. Form of license.
 22. Duration of license.
 23. Countersignature of license.
 24. Power for Magistrate to cancel countersignature in certain cases.
 25. Notice to Protector of Emigrants of countersignature, refusal to countersign or cancellation of countersignature.
 26. Recruiter to be supplied with statement of terms of agreement he is authorized to offer.
 27. Accommodation to be provided by recruiters.
-

CHAPTER VI.

REGISTRATION OF EMIGRANTS AND EXECUTION OF AGREEMENTS TO EMIGRATE

28. Power for Local Government to appoint Registering Officers.

SECTIONS.

29. Execution of agreements.
 30. Appearance of intending emigrants before Registering Officer.
 31. Examination and registration of emigrant.
 32. Power to refuse registration in case of married women.
 33. Examination of dependent.
 34. Record of reasons for refusal to register.
 35. Execution and attestation of agreement.
 36. Contents of agreement.
 37. Disposal of copies of agreement.
 38. Fee for preparation of agreement.
 39. Power to make agreement if over 16.
 40. Power to make agreement on behalf of child or ward.
-

CHAPTER VII.

EMIGRATION DEPÔTS.

41. Depôts to be established at ports of embarkation.
 42. Licensing of depôts.
 43. Inspection by Protector and Medical Inspector.
 44. Report by Medical Inspector.
 45. Treatment of emigrant suffering from disease.
-

CHAPTER VIII.

CONVEYANCE OF EMIGRANTS TO DEPÔTS AND PROCEDURE ON ARRIVAL.

46. Emigrant not to be removed before registration.
 47. Conveyance of emigrant to depôt.
 48. Report of arrival at depôt.
 49. Examination by Medical Inspector.
 50. Power for Protector to order payment of expenses of return of emigrant in certain cases.
 51. Payment of expenses of dependents and relatives.
 52. Compensation to emigrant for ill-treatment on journey.
 53. Power for Protector to pay and recover expenses incurred on behalf of emigrant.
-

CHAPTER IX.

EMIGRANT-VESSELS.

54. Master of emigrant-vessel to be licensed.
55. Application for license.
56. Survey and licensing of vessel.
57. Accommodation required on board emigrant-vessel.

SECTIONS.

58. Rules as to space on board emigrant-vessel.
59. Provisions, clothing, fuel and water.
60. Surgeons, attendants, medicines and stores.
61. Duty of Protector and Medical Inspector with respect to enforcement of foregoing sections.
62. Bond to be executed by master of emigrant-vessel. *

CHAPTER X.

EMBARKATION AND DEPARTURE.

63. Time of embarkation after arrival.
64. Time at which emigrant-vessels may leave India.
65. Procedure if emigrant refuses to embark.
66. List of, and passes for, emigrants.
67. Disposal of the two copies of list to be given by master to Protector.
68. Disposal of the two copies of list to be given by master to Emigration Agent.
69. Examination of emigrants by Medical Inspector.
70. Emigration Agent to deliver agreements to emigrate to master.
71. Certificates from Protector of Emigrants and Emigration Agent.
72. Copies of Act and rules to be kept on board.
73. Fee for each embarked emigrant.
74. Duty of master to see to observance of Act and rules on board his vessel.
75. Return of pass to emigrant.

Special Provisions as to Vessels sailing from Calcutta.

76. Emigrant-vessel sailing from Calcutta to depart within twenty-four hours of embarkation.
77. Emigrant-vessel sailing from Calcutta to be towed to sea.
78. Power of surgeon of emigrant-vessel leaving Calcutta to require sick emigrants to be sent to hospital.
79. Power of surgeon of emigrant-vessel leaving Calcutta to require all emigrants to be landed when cholera appears.

CHAPTER XI.

RULES.

80. Power for Governor General in Council to make rules.
81. Publication of drafts and rules.

CHAPTER XII.

OFFENCES.

SECTIONS.

82. Unlawful recruiting.
 83. Recruiters removing unregistered emigrants to depôt.
 84. Fraudulently inducing Native to emigrate.
 85. False representation of Government authority.
 86. Receiving emigrants on board vessel in contravention of Act.
 87. Fraudulent acts on part of master.
 88. Clearance without compliance with Act.
 89. Failure of master to comply with provisions as to lists and passes.
 90. Master taking on board, after clearance, emigrants not entered in list.
 91. Master landing emigrant at other than specified country.
 92. Failure to comply with provisions as to leaving Calcutta.
 93. Emigrant deserting or refusing to proceed to depôt.
 94. Emigrant deserting from depôt or failing to embark.
 95. Causing or permitting embarkation of emigrant in contravention of section 63.
 96. Institution of prosecutions.
 97. Defence to charges of desertion.
 98. Power for Customs-officers to search and detain for purposes of Act.
-

CHAPTER XIII.

SUPPLEMENTAL.

99. Power for Local Government to appoint Magistrates for purposes of Act.
 100. Suits against Emigration Agent for breach of duty.
 101. Power for Governor General in Council to determine probable lengths of voyages for purposes of Act.
 102. Power for Governor General in Council to exempt from Act emigration to Native States adjoining the Straits Settlements.
 103. Application of Act to emigration from British ports to French and Dutch colonies.
 104. Application of Act to proceedings in British India connected with emigration from French ports in India to French colonies.
 105. Prohibition of departure by land of a Native of India under an agreement to labour for hire in some country beyond the sea.
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SCHEDULE I.—COUNTRIES TO WHICH EMIGRATION IS LAWFUL.

SCHEDULE II.—FORM OF RECRUITER'S LICENSE.

SCHEDULE III.—PROBABLE LENGTHS OF VOYAGES UNDER THIS ACT.

(Chapter I.—Preliminary. Secs. 1-6)

ACT No. XXI OF 1883.

Received the Governor General's assent on the 18th December, 1883.

An Act to amend the law relating to the Emigration of Natives of India.

WHEREAS it is expedient to amend the law relating to the emigration of Natives of India ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

- | | |
|---|--|
| Short title and extent. | 1. (1) This Act may be called the Indian Emigration Act, 1883. |
| | (2) It extends to the whole of British India. |
| Exemption of Government vessels. | 2. Nothing in this Act or in any rule made under this Act shall apply to any vessel belonging to, or in the service of, Her Majesty or of the Government of India. |
| Commencement. | 3. Except as to the power to make rules, this Act shall come into force on such day as the Governor General in Council, by notification in the <i>Gazette of India</i> , appoints. |
| Repeal of enactments. | 4. On and from the day on which this Act comes into force, the Indian VII of 1871. Emigration Act, 1871, and Act No. XIV of 1872 (to exempt the Straits Settlements from the Indian Emigration Act, 1871) shall be repealed. XIV of 1872. |
| Saving for proceedings under repealed enactments. | 5. All notifications issued, contracts entered into, rules and appointments made, and licenses granted under any enactment hereby repealed, and in force on the day on which this Act comes into force, shall (so far as they are consistent with this Act) be deemed to have been respectively issued, entered into, made and granted under this Act. |
| Definitions. | 6. In this Act, unless there is something repugnant in the subject or context,— (1) “Emigrate” and “emigration” denote the departure by sea out of British India of a Native of India under an agreement to labour for hire in some country beyond the limits of India other than the island of Ceylon or the Straits Settlements : Provided that a domestic servant when accompanying his employer shall not be deemed to emigrate within the meaning of the above definition : (2) “Emigrant” means any Native of India who emigrates, or has emigrated, within the meaning of the above definition, or who has been regis- |

(Chapter II.—*Ports from which, and Countries to which, Emigration is lawful.*
Sec. 7.)

tered under this Act^a as an emigrant, and includes any dependent of an emigrant:

(3) "Dependent" means any of the following persons accompanying any emigrant, namely:—

- (a) any woman who has not entered into an agreement to emigrate under this Act^a;
- (b) any child in whose name and on whose behalf any such agreement has not been entered into; and
- (c) any aged or incapacitated relative or friend:

(4) "Magistrate" means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a District Magistrate or a Sub-divisional Magistrate, and includes also any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Magistrate under this Act:

(5) "Registering Officer" means any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Registering Officer under this Act:

(6) "Recruiter" includes a head recruiter or other person who collects or receives emigrants recruited by other persons:

(7) "Vessel" includes anything made for the conveyance by water of human beings or property:

(8) "Emigrant-vessel" means a vessel the master of which is licensed under this Act^b to carry emigrants therein: and

(9) "Master" means any person (except a pilot or harbour-master) having for the time being control or charge of a vessel.

CHAPTER II.

PORTS FROM WHICH, AND COUNTRIES TO WHICH, EMIGRATION IS LAWFUL.

7. (1) Emigration shall not be lawful except from the ports of Calcutta, Madras and Bombay, and from such other ports as the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be ports from which emigration is lawful.

Ports from
which emi-
gration is
lawful.

^a See Chapter VI, *infra*.

^b See Chapter IX, *infra*.

(Chapter IV.—*Protectors of Emigrants and Medical Inspectors. Secs. 16-19.*)

depend on, or be regulated by, the number of emigrants sent by him, but shall be in the nature of a fixed salary:

Provided that the Governor General in Council may, from time to time, authorize the payment to specified Emigration Agents of special fees for occasional work.

CHAPTER IV.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

Appointment
of Protectors
of Emigrants.

16. (1) The Local Government may, from time to time, appoint a proper person to be the Protector of Emigrants for any port within the territories administered by it from which emigration is lawful.

(2) The Governor General in Council may, from time to time, define the local area to which the authority of any Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants may be suspended or removed by the Local Government which appointed him.

(4) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

General
duties of
Protector.

17. Every Protector of Emigrants, in addition to the special duties assigned to him by this Act or the rules made under this Act, shall—

- (a) protect and aid with his advice all emigrants;
- (b) cause, so far as he can, all the provisions of this Act and of the rules made under this Act to be complied with;
- (c) inspect, on arrival, all vessels bringing return-emigrants to the port for which he is Protector;
- (d) enquire into the treatment received by the return-emigrants both during the period of their service in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government; and
- (e) aid and advise the return-emigrants so far as he reasonably can.

Appointment
of Medical
Inspector.

18. (1) The Local Government may, from time to time, appoint a Medical Inspector of Emigrants at each port from which emigration is lawful, and may suspend or remove him.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

Protector and

19. Every Emigration Agent, and all persons in charge of, or employed in,

any depôt established under this Act,^a or in charge of, or employed in, any emigrant-vessel, shall give the Protector of Emigrants and the Medical Inspector of Emigrants every facility for making such inspections, examinations and surveys as are required by this Act or by the rules made under this Act, or as those officers may deem necessary or proper, and shall afford them all such information as they may reasonably require.

Medical
Inspector to
have facilities
for inspection

CHAPTER V.

RECRUITERS.

20. (1) The Protector of Emigrants at each of the ports from which emigration is lawful shall, on the application of the Emigration Agent for any country to which emigration is lawful, grant licenses to so many fit persons as to the Protector seems necessary to be recruiters of emigrants within the local area to which the authority of the Protector extends.

Protector of
Emigrants
to license
recruiters.

(2) A person shall not, unless he holds a license granted under this chapter,—

(a) enter into, or attempt to enter into, any agreement with any person purporting to bind him to emigrate, or

(b) in consideration of any hire or reward, induce, or attempt to induce, any person to leave any place for the purpose of emigrating, or

(c) act or be employed in any other respect as a recruiter of emigrants.

(3) Every recruiter shall produce his license when called upon to do so by any Magistrate or officer in charge of a police-station.

21. Every license granted under this chapter shall specify the particular country for which, and the local area within which, the holder is licensed to recruit, and may be in the form set forth in the second schedule hereto annexed.

Form of
license.

22. (1) A license granted under this chapter shall not be in force for a longer period than one year from the day on which it comes into force.

Duration of
license.

(2) The Protector of Emigrants may, on the ground of misconduct, cancel any license granted by him under this chapter before the expiration of the period for which it is in force.

23. (1) A recruiter shall not, in any place beyond the limits of a port from which emigration is lawful, enter, or attempt to enter, into any agreement with any person purporting to bind him to emigrate, or induce or assist,

Counter-
signature of
license.

^a See Chapter VII, *infra*.

(Chapter V.—Recruiters. Secs. 24-26.)

or attempt to induce or assist, any person to leave any place for the purpose of emigrating, or act or be employed in any other respect as a recruiter of emigrants, unless his license bears the countersignature of the District Magistrate.

(2) If a District Magistrate has satisfied himself, after such enquiry as he thinks necessary, that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, he may refuse to countersign a recruiter's license.

(3) If a District Magistrate has satisfied himself, after such enquiry as aforesaid, that sufficient and proper accommodation has not been provided in a suitable place, or is not available, for such intending emigrants or emigrants as may be collected by the recruiter pending their registration or removal to the depôt at the port of embarkation, he may refuse to countersign a recruiter's license or to decide whether he will countersign his license until after the expiration of such time as may in his opinion be reasonable.

(4) Before a Magistrate refuses to countersign, or defers his countersignature of, a recruiter's license, he shall record in writing his reasons for so doing.

Power for
Magistrate
to cancel
countersignature in certain cases.

24. If any Magistrate, having countersigned a recruiter's license, afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided for intending emigrants or emigrants collected by him has become unsuitable or has ceased to be available, he may require the licensee to produce his license, and may cancel the countersignature on it, or may impound the license and send it for cancellation to the Protector of Emigrants who granted it.

Notice to
Protector of
Emigrants of
countersignature, refusal
to countersign or cancellation of
countersignature.

25. When a Magistrate countersigns, or refuses to countersign, a recruiter's license, or cancels the countersignature on it, he shall at once report the countersignature, or the refusal or cancellation, and the grounds of the refusal or cancellation, to the Protector of Emigrants who granted the license.

Recruiter to
be supplied
with statement
of terms of
agreement he
is authorized
to offer.

26. (1) The Emigration Agent on whose application any recruiter is licensed shall supply the recruiter with a written or printed statement, signed by the Agent, and countersigned by the Protector of Emigrants, of the terms of agreement which the recruiter is authorized to offer on behalf of the Agent to intending emigrants.

(Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate. Secs. 27-29.)

(2) The statement shall be both in English and in the Vernacular language or languages of the local area within which the recruiter is licensed to recruit.

(3) The recruiter shall give a true copy of the statement to every person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station, when called upon to do so by the Magistrate or officer.

27. (1) Every recruiter shall provide sufficient and proper accommodation in a suitable place for such intending emigrants or emigrants as may be collected by him pending their registration or removal to the port of embarkation. Accommodation to be provided by recruiters.

(2) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(3) Every District Magistrate, and any subordinate Magistrate or officer of Police authorised in this behalf by a rule made under this Act, shall have, for the supervision and regulation of the places where accommodation is provided under this section, the same powers as are by this Act^a conferred on a Protector of Emigrants in respect of depôts at the port of embarkation.

(4) All recruiters or other persons in charge of these places shall afford every Magistrate and any officer of Police authorised as aforesaid in this behalf every facility for visiting and inspecting them.

CHAPTER VI.

REGISTRATION OF EMIGRANTS AND EXECUTION OF AGREEMENTS TO EMIGRATE.

28. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform in a specified local area, but subject to the control of the District Magistrate or such other officer as the Local Government appoints, by name or by virtue of his office, in this behalf, the functions of a Registering Officer under this Act. Power for Local Government to appoint Registering Officers.

29. Every agreement to emigrate entered into by any person must—

(a) if executed within the limits of any port from which emigration is lawful, be executed in the presence of the Protector ; Execution of agreements.

^a See Chapter VII, *infra*.

(Chapter VII.—Emigration Depôts. Secs. 40-43.)

make agree-
ment if over
16.

1872, it shall be lawful for any person of the age of sixteen years or upwards to enter in manner in this Act provided into an agreement to emigrate to any place to which emigration is lawful.

Power to
make agree-
ment on
behalf of
child or
ward.

40. Any person entering into an agreement to emigrate, and being the parent or guardian of a child under the age of sixteen years and above the age of ten years, may, in the name of and on behalf of the child, enter into an agreement in manner in this Act provided binding the child to emigrate with him.

CHAPTER VII.

EMIGRATION DEPÔTS.

Depôts to
be establish-
ed at ports
of embark-
ation.

41. Every Emigration Agent shall establish at the port for which he is appointed a suitable depôt for the reception and lodging of emigrants before embarkation for the country for which he is Emigration Agent, and shall provide all necessary food and clothing for all emigrants during their stay at the depôt.

Licensing of
depôts.

42. (1) A depôt established under the last foregoing section shall not be used for the reception and lodging of emigrants until it has been inspected and approved by the Protector of Emigrants and the Medical Inspector of Emigrants, and a license for its use has been granted by the Protector.

(2) A license under this section shall not be granted for a longer period than one year from the day on which it comes into force.

(3) The Protector of Emigrants may at any time cancel a license under this section—

(a) if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or

(b) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act.

Inspection by
Protector and
Medical In-
spector.

43. The Protector of Emigrants and the Medical Inspector shall, from time to time, and at least once in every week during which any emigrants may be kept in any depôt at the port for which they are Protector and Medical Inspector, respectively, inspect the emigrants in that depôt, and examine the state of the depôt, and the manner in which the emigrants therein are lodged, fed, clothed and otherwise provided for and attended to.

(Chapter VIII.—*Conveyance of Emigrants to Depôts and Procedure on Arrival.*
Secs. 44-47.)

44. The Medical Inspector shall report to the Protector of Emigrants any circumstance that may come to his knowledge showing that any dépôt is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

Report by
Medical In-
spector.

45. (1) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the dépôt.

Treatment of
emigrant
suffering
from disease.

(2) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removal of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector of Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

CHAPTER VIII.

CONVEYANCE OF EMIGRANTS TO DEPÔTS AND PROCEDURE ON ARRIVAL.

46. A recruiter shall not remove or attempt to remove any intending emigrant to a dépôt, or induce or attempt to induce him to go to a dépôt, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a dépôt, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

Emigrant not
to be removed
before regis-
tration.

47. (1) Every emigrant must, after he has been registered under this Act, be conveyed with all convenient despatch, by or under the orders of the recruiter or Emigration Agent, to the dépôt established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

Conveyance
of emigrant
to dépôt.

(2) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the dépôt, be accompanied throughout the journey either by the recruiter himself or by a competent person appointed by him with the approval of a Magistrate.

(3) The Magistrate shall give to the person so appointed a certificate signed by him stating that he has been appointed for the journey to the dépôt.

(Chapter VIII — Conveyance of Emigrants to Depôts and Procedure on Arrival.
Sers. 48-50)

(4) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

Report of
arrival at
depôt.

48. The arrival at a depôt of each emigrant must immediately be reported by the person in charge of the depôt to the Emigration Agent, and by the Agent to the Protector of Emigrants.

Examination
by Medical
Inspector.

49. (1) The copy of the agreement received by the recruiter from the Registering Officer or Protector must, as soon as conveniently may be after the arrival of the emigrant at the depôt, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

(2) The Medical Inspector shall examine each emigrant entered in the agreement to ascertain whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(3) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

Power for
Protector to
order pay-
ment of ex-
penses of
return of
emigrant in
certain cases.

50. (1) In any of the following cases, namely :—

- (a) if the Medical Inspector of Emigrants finds that an emigrant is, or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or
- (b) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or
- (c) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and, when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

(2) Any emigrant who has been registered at any place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed

(Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival.
Secs. 51-53.)

lodged, clothed and attended to at the depôt at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

51. (1) When any order is made under the last foregoing section with reference to any emigrant who was registered at any place beyond the limits of the port of embarkation, any emigrant who has been registered as his dependent, Payment of expenses of dependents and relatives.

or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, shall be entitled—

(a) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered; and

(b) if the emigrant is unable to travel, to be lodged, fed and clothed in the depôt at the expense of the Emigration Agent until the emigrant is able to travel.

(2) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

52. If it appears that during the journey to the depôt any emigrant has suffered any ill-treatment, or that, in the case of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section 47 have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay— Compensation to emigrant for ill-treatment on journey.

(a) to the emigrant a reasonable sum by way of compensation, and

(b) if any expenses have been incurred by or under the orders of the Protector on behalf of the emigrant by reason of the neglect to comply with the provisions of section 47, to the Protector the expenses so incurred.

53. (1) On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant. Power for Protector to pay and recover expenses incurred on behalf of emigrant.

(2) Every sum paid by the Protector to an emigrant under sub-section (1) and, on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section, shall be recoverable from the Emigration Agent with

(Chapter IX.—Emigrant-vessels. Secs. 54-57.)

interest thereon at the rate of six per centum per annum from the date of payment.

(3) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

CHAPTER IX.

EMIGRANT-VESSELS.

Master of
emigrant-
vessel to be
licensed.

54. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in the vessel has been obtained from the Local Government.

Application
for license.

55. (1) When the master or owner of any vessel desires to obtain a license to carry emigrants in his vessel, he shall apply in writing through the Protector of Emigrants to the Local Government for the license.

(2) The application must state the number of emigrants which, according to the rules as to space contained in this chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Survey and
licensing of
vessel

56. (1) The Protector of Emigrants shall cause the vessel to be surveyed by a competent person at the cost of the master or owner, with a view to ascertain her seaworthiness, and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated, and is supplied with all the tackle, apparel and furniture requisite for her intended voyage.

(2) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein specifying the number of emigrants which may be received on board.

Accommoda-
tion required
on board
emigrant-
vessel.

57. (1) A license shall not be granted under the last foregoing section unless—

- (a) there is provided for the emigrants, either between decks or, subject to the approval of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet;

(Chapter IX.—Emigrant-vessels. Secs. 58-62.)

- (b) a separate place is fitted up for a hospital ; and
- (c) such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

(2) The cabins on the upper deck provided under clause (a) of this section must be firmly secured and entirely covered in.

58. Every emigrant-vessel must contain within the space referred to in clause (a) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant :

Rules as to
space on
board emi-
grant-vessel.

Provided that two emigrants under the age of ten years shall for the purposes of this section count as one only.

59. There must be on board every emigrant-vessel, at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel and water for the emigrants (over and above the supply for the master, officers and crew, and of the cabin and other passengers, if any), in such quantity and of such description and quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Provisions,
clothing, fuel
and water.

60. Every emigrant-vessel must, at the time of departure of the vessel from the port at which the emigrants embark, have on board, and must carry with her, a properly qualified surgeon, and also such compounders, interpreters and attendants subordinate to the surgeon, and such medicines and other stores, in such quantity and of such quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Surgeons,
attendants,
medicines and
stores.

61. The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of the last two foregoing sections are complied with.

Duty of
Protector and
Medical
Inspector
with respect
to enforce-
ment of
foregoing
sections.

62. (1) Every master licensed under this Act shall, on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector, in duplicate, a bond, in such form as the Local Government, from time to time, prescribes, binding himself and the owner of the vessel in a penal sum of ten thousand rupees to perform the duties imposed by this Act or any rule made under this Act on a master and owner respectively.

Bond to be
executed by
master of
emigrant-
vessel.

- (2) The Protector of Emigrants shall forward one copy of the bond to such

(Chapter X.—Embarkation and Departure. Secs. 63-66.)

officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

CHAPTER X.

EMBARKATION AND DEPARTURE.

Time of
embarkation
after arrival.

63. An emigrant shall not embark, except with the permission of the Protector of Emigrants, until seven days have elapsed from the date of his arrival at the depôt.

Time at
which emi-
grant-vessels
may leave
India.

64. An emigrant-vessel shall not sail from any port in British India—

(a) to any country west of the Cape of Good Hope, except at such seasons as the Governor General in Council, from time to time, by rules made under this Act, prescribes as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country ;

(b) to any country during any season which the Governor General in Council, from time to time, by notification in the *Gazette of India*, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

Procedure if
emigrant
refuses to
embark.

65. If any emigrant without sufficient cause refuses or neglects to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark ; but nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

List of, and
passes for,
emigrants.

66. (1) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages and occupations of the emigrants, and the names of their respective fathers.

(2) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

(3) Every emigrant shall on embarkation deliver the pass to the master.

(4) The master shall compare the emigrants who embark and the passes delivered by them with the list supplied by the Emigration Agent ; and, if

(Chapter X.—Embarkation and Departure. Secs. 67-70.)

the list appears to be correct and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(5) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master, or is not mentioned in the list.

67. (1) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

Disposal of the two copies of list to be given by master to Protector.

(2) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

68. (1) The master shall give to the Emigration Agent the two remaining copies of the list.

Disposal of the two copies of list to be given by master to Emigration Agent.

(2) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(3) The master shall, on the arrival of the vessel at the country to which the emigrants have agreed to emigrate, and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

69. (1) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

Examination of emigrants by Medical Inspector.

(2) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant, registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(3) The provisions of sections 50, 51 and 53 shall apply to emigrants who under this section are not permitted to embark, and to any emigrants who under this section refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

70. The Emigration Agent shall, after all the emigrants have embarked, deliver to the master all the agreements made by the Emigration Agent or

Emigration Agent to

(Chapter X.—Embarkation and Departure. Secs. 71-73.)

deliver agree-
ments to emi-
grate to
master.

under his authority with the emigrants, and delivered or sent to him under this Act; and the master shall, on arrival at the country to which the emigrants are to be conveyed, deliver these agreements to such officer as may be appointed in this behalf by the Government of the country, or, in the case of foreign colony, to the British Consular Agent.

Certificates
from Protec-
tor of Emi-
grants and
Emigration
Agent.

71. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Protector of Emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates, signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that port in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent, respectively, and that all the directions for the security, well-being and protection of emigrants which are contained in this Act or in the rules made under this Act have in the case of that vessel been complied with.

Copies of Act
and rules to
be kept on
board.

72. The master of every emigrant-vessel shall keep on board the vessel during the whole voyage two copies of this Act, and of all rules made under this Act, and two copies of a translation of this Act, and of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

Fee for each
embarked
emigrant.

73. For each emigrant who embarks on board an emigrant-vessel the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes :

Provided as follows :—

- (a) the fee payable under this section shall not be more than is, in the opinion of the Governor General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor General in Council thinks necessary to provide for the control of emigration :
- (b) if it appears to the Governor General in Council expedient to provide, in the case of any country, any special establishment or expenditure for the protection of Indian emigrants to that country, the Governor General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his

(Chapter X.—Embarkation and Departure. Secs. 74-79.)

opinion, to cover the cost of the special establishment or expenditure.

74. It shall be the duty of every master licensed under this Act to see that all the provisions of this Act and the rules made under this Act are observed on board his vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

Duty of master to see to observance of Act and rules on board his vessel.

75. The master shall return his pass to each emigrant before he disembarks in the country to which he has agreed to emigrate.

Return of pass to emigrant.

Special Provisions as to Vessels sailing from Calcutta.

76. The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as have first embarked.

Emigrant-vessel sailing from Calcutta to depart within 24 hours of embarkation.

77. Every sailing-vessel leaving the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

Emigrant-vessel sailing from Calcutta to be towed to sea.

78. (1) When an emigrant-vessel leaves the port of Calcutta, if during her passage down the river, and while between Garden Reach and Diamond Harbour, the disease of measles, scarlet-fever or small-pox appears on board, the master shall, if so required by the surgeon in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents, and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of any such emigrant and who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

Power of surgeon of emigrant-vessel leaving Calcutta to require sick emigrants to be sent to hospital.

(2) The provisions of sections 50, 51 and 53 shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

79. (1) In the event of cholera in an epidemic form appearing among the emigrants on board any such vessel carrying emigrants from the port of Calcutta, the surgeon in charge of the emigrants may require the master to land all the emigrants on board the vessel at Diamond Harbour.

Power of surgeon of emigrant-vessel leaving Calcutta to require all emigrants to be landed when cholera appears.

(2) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

CHAPTER XI.

RULES.

Power for
Governor
General in
Council to
make rules.

80. (1) The Governor General in Council may, from time to time, make rules consistent with this Act—

- (a) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of Police to be authorized to visit and inspect those places ;
- (b) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act ;
- (c) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein and the language or languages in which agreements must be expressed ;
- (d) to prescribe the conditions on which licenses for the establishment of depôts under this Act may be given, to provide for the supervision and regulation of depôts, and for the medical care of the emigrants during their residence there, and the measures to be taken on the outbreak of any epidemic or infectious disease there ;
- (e) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act ;
- (f) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state ;
- (g) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangements to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel ;
- (h) to prescribe the description, quantity and quality of provisions, fuel and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage ;
- (i) to fix the number of the compounders, interpreters and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel ;
- (j) to prescribe the nature, quantity and quality of medicines and other stores to be carried on board emigrant vessels ;

(Chapter XI.—Rules. Sec. 81.)

- (k) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets and other appliances to be used in case of shipwreck or fire;
- (l) to prescribe the seasons at which alone emigrant-vessels or specified classes of emigrant-vessels may sail from any port in British India to any country west of the Cape of Good Hope to which emigration is for the time being lawful;
- (m) to provide for the disposal of emigrants who may be landed under section 79;
- (n) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage;
- (o) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and his treatment of the sick, with full explanation of the causes of every death; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care;
- (p) to define and regulate the powers and duties of the several officers appointed by the Government under this Act; and
- (q) generally to provide for the security, well-being and protection of emigrants:

Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (g) of this section, permit an emigrant-vessel to sail, though it does not carry the proportion of women required to be carried in ordinary cases.

(2) The power to make rules conferred by this section may be exercised at any time after the passing of this Act, but any rule made under this section shall not take effect until the Act comes into force.

81. (1) The Governor General in Council shall, before making rules under the last foregoing section, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

Publication
of drafts and
rules.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the *Gazette of India*, and the publication in the *Gazette of India* of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

CHAPTER XII.

OFFENCES.

Unlawful
recruiting.

82. (1) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

- (a) makes, or attempts to make, any agreement with any Native of India, purporting to bind him to emigrate, or
- (b) in consideration of any hire or reward, induces, or attempts to induce, any Native of India to leave any place for the purpose of emigrating, or otherwise acts or is employed as a recruiter of emigrants, or
- (c) in consideration of any hire or reward, receives into or detains in any place, or, being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or after his registration as an emigrant and before his departure for the depôt at the port of embarkation, shall be punished with fine which may extend to five hundred rupees.

(2) If any person, other than a recruiter licensed under this Act, commits an offence under this section, any Police-officer may arrest him without warrant.

Recruiters
removing
unregistered
emigrants to
depôt.

83. Whoever, being a recruiter licensed under this Act,—

- (a) removes, or attempts to remove, any intending emigrant to a depôt before he has been registered under this Act as an emigrant, or induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned before he has been so registered, or aids, or attempts to aid, him in leaving any such local limits or going to any depôt before he has been so registered, or
- (b) fails to give a true copy of the statement with which he is provided under section 26 to any person whom he invites to emigrate, or
- (c) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depôt, shall be punished with fine which may extend to five hundred rupees.

84. Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any Native of India to emigrate, or to enter into any agreement to emigrate, or to leave any place with a view to emigrating, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Fraudulently inducing Native to emigrate.

85. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure emigrants, or falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

False representation of Government authority.

86. If any master of a vessel—

- (a) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act or the rules made under this Act, so far as they are binding on him, or
- (b) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or
- (c) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

Receiving emigrants on board vessel in contravention of Act,

he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, for each emigrant so received, or with both; and the vessel, her tackle, apparel and furniture, may be declared by the Court before which the master is tried to be forfeited to Her Majesty.

87. If any master licensed under this Act fraudulently does, or suffers to be done, any act or thing whereby the license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, he shall be punished with fine which may extend to five thousand rupees;

Fraudulent acts on part of master,

and he may also be sued on any bond which he may have executed under section 62.

88. If any master of an emigrant-vessel clears, or attempts to clear, his vessel outwards when any of the provisions of section 57, 59 or 60 have not been complied with in respect of his vessel, he shall be punished with fine which may extend to four thousand rupees.

Clearance without compliance with Act.

89. If any master receives on board his vessel any emigrants and fails to comply with the requirements of sections 66, 67 and 68 in respect of those

Failure of master to comply with

(Chapter XII.—Offences. Secs. 90-94)

provisions as to lists and passes.

Master taking on board, after clearance, emigrants not entered in list.

Master landing emigrant at other than specified country.

Failure to comply with provisions as to leaving Calcutta.

Emigrant deserting or refusing to proceed to depôt.

Emigrant deserting from depôt or failing to embark.

emigrants, he shall be punished with fine which may extend to two hundred rupees for each emigrant so received on board.

90. If any master, having cleared his vessel, takes on board any emigrant not entered in the list mentioned in section 66 or not furnished with a pass required by that section, he shall be punished with fine which may extend to two hundred rupees for each emigrant so taken.

91. If any master lands any emigrant in any country other than the country for which he has been shipped by the Emigration Agent, he shall be punished for every emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of section 78 or 79.

92. If any master of a sailing-vessel leaving the port of Calcutta with emigrants on board—

(a) does not leave Garden Reach with his vessel within the time prescribed in section 76, or

(b) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in section 77,

he shall be punished with fine which may extend to one thousand rupees.

93. (1) If any emigrant deserts before arrival at depôt, or refuses without reasonable cause to proceed to the depôt, he shall be punished with fine which may extend to twenty rupees, or to the cost incurred in entering into an agreement with, registering and conveying him to the depôt, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

94. (1) If any emigrant—

(a) deserts from the depôt, or

(b) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering and conveying him to the depôt, and maintaining him therein, or with both.

(Chapter XIII.—Supplemental. Secs. 95-99.)

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

95. If any person causes, or if any master knowingly permits, any emigrant to embark contrary to the provisions of section 63, he shall be punished with fine which may extend to two hundred rupees for each emigrant so embarked.

Causing, or permitting, embarkation of emigrant in contravention of section 63.

96. Prosecutions under sections 86 to 95 (both inclusive) shall not be instituted except as follows, namely :—

Institution of prosecutions.

(a) prosecutions under sections 86 to 92, both inclusive, by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed for the purpose by the Local Government :

(b) prosecutions under section 93, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation :

(c) prosecutions under section 94, by the Emigration Agent with the sanction of the Protector :

(d) prosecutions under section 95, by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

97. The following shall be good defences to charges under sections 93 and 94, respectively, namely :—

Defence to charges of desertion.

(a) to a charge under section 93, that the accused person or other emigrants accompanying him has or have been ill-treated, deceived or defrauded by the recruiter or any person under his control ;

(b) to a charge under section 94, that the emigrant has suffered any ill-treatment or neglect in the dépôt or on the journey thither.

98. All the powers for the time being conferred by law on officers of sea-customs with regard to the searching and detention of vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

Power for Customs-officers to search and detain for purposes of Act.

CHAPTER XIII.

SUPPLEMENTAL.

99. The Local Government may, from time to time, appoint any person, Power for

(Chapter XIII.—Supplemental. Secs. 100-103.)

Local Government to appoint Magistrates for purposes of Act.

Suits against Emigration Agent for breach of duty.

by name or by virtue of his office, to perform within a specified local area the functions of a Magistrate under this Act.

100. (1) Whenever an Emigration Agent is chargeable with a breach of any duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of compensation for the breach.

(2) In awarding compensation under this section, all sums ordered to be paid under section 50 or section 52 shall be taken into consideration.

Power for Governor General in Council to determine probable lengths of voyages for purposes of Act.

101. (1) The Governor General in Council may, from time to time, by notification in the *Gazette of India*, determine what shall be held to be, for the purposes of this Act, the probable length of the voyages by sailing-vessels and vessels using steam-power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

(2) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels from the ports mentioned in the third schedule hereto annexed, to the countries mentioned in that schedule, shall be deemed to be the lengths stated in that schedule.

Power for Governor General in Council to exempt from Act emigration to Native States adjoining the Straits Settlements.

*102. On and from such a date as the Governor General in Council may, by notification in the *Gazette of India*, fix in this behalf, a Native of India who departs by sea out of British India under an agreement to labour for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act.

Application of Act to emigration from British ports to French and Dutch colonies.

103. The provisions of this Act shall apply to emigration from British Indian ports—

- (a) to the French colonies, under the terms of the Convention^b executed at Paris on the first day of July, 1861, and ratified at the same place on the 30th day of July, 1861, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French; and
- (b) to the Netherlands colony of Dutch Guiana, under the terms of the

^a See Act XXI of 1884, section 2.

^b A copy of this convention is printed with Act VII of 1871, in the volume of General Acts for 1864—1871.

(Chapter XIII.—*Supplemental. Secs. 104-105.*)

Convention executed at the Hague on the 8th day of September, 1870, and ratified at the same place on the 17th day of February, 1872, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the King of the Netherlands :

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in either of those Conventions, the latter shall prevail.

104. The provisions of this Act shall, so far as they relate to proceedings which are to be conducted in British India, apply, in the case of Natives of India who depart by sea from a French port in India under an agreement to labour for hire in a French colony, under the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French referred to in the last foregoing section, as if such Natives were emigrants within the meaning of this Act :

Application of Act to proceedings in British India connected with emigration from French ports in India to French colonies.

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in that Convention, the latter shall prevail.

105. (1) The departure by land out of British India of a Native of India under a contract to labour for hire in some country beyond the sea other than the Island of Ceylon or the Straits Settlements is prohibited :

Prohibition of departure by land of a Native of India under an agreement to labour for hire in some country beyond the sea.

Provided that nothing in this section applies to the departure by land—

- (a) of a domestic servant, when accompanying his employer ;
- (b) of a Native of India, for the purpose of departing by sea from a French port in India under an agreement to labour for hire in a French colony in accordance with the Convention referred to in section 102.^a

(2) Whoever induces, or attempts to induce, any Native of India to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under section 82.

[illegible]

(Schedule III.—Probable Lengths of Voyages under this Act)

SCHEDULE III.

(See section 101.)

PROBABLE LENGTHS OF VOYAGES^a UNDER THIS ACT.

From Calcutta—

| | |
|---|--|
| To Mauritius | { From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks. |
| To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana. | { Twenty weeks. |
| To Natal | Twelve weeks. |
| To Fiji | Eighteen weeks. |

From Madras—

| | |
|--|--|
| To Mauritius | { From the month of April to the month of October, both inclusive, seven weeks; and from the month of November to the month of March, both inclusive, six weeks. |
| To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana | { Nineteen weeks. |
| To Natal | Ten weeks. |
| To Fiji | Seventeen weeks. |

From Bombay—

| | |
|---|--|
| To Mauritius | { From the month of April to the month of September, both inclusive, five weeks; and from the month of October to the month of March, both inclusive, six weeks. |
| To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana. | { Nineteen weeks. |
| To Natal | Ten weeks. |
| To Fiji | Seventeen weeks. |

^a By sailing-vessels

ACT No. I OF 1884.

Received the Governor General's assent on the 4th January, 1884.

An Act to amend the law relating to the granting of honorary degrees by the Universities at Calcutta, Madras and Bombay.

WHEREAS it is expedient to amend the law relating to the granting of honorary degrees, and to give to the Universities at Calcutta, Madras and Bombay the power of granting the degree of Doctor in the faculty of Law to persons who have not undergone a previous examination ;

and whereas the executive government of each of the said Universities is, by bye-laws made under the Acts establishing the same, vested in a Syndicate consisting of the Vice-Chancellor and certain of the Fellows ;

It is hereby enacted as follows :—

Repeal of
Act XXI of
1875.

1. Act No. XXI of 1875 (*an Act to authorize the University at Calcutta to grant honorary degrees*) is repealed. XXI of 1875.

Power to
confer hono-
rary degree of
Doctor in
the faculty
of Law.

2. If the Vice-Chancellor and not less than two-thirds of the other members of the Syndicate of any of the Universities at Calcutta, Madras and Bombay recommend that an honorary degree be conferred on any person, on the ground that he is, in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree, and their recommendation is supported by a majority of those present at a meeting of the Senate and is confirmed by the Chancellor, it shall be lawful for the Chancellor, Vice-Chancellor and Fellows to confer on that person the degree of Doctor in the faculty of Law, without requiring him to undergo any examination.

ACT No. III OF 1884.

Received the Governor General's assent on the 25th January, 1884.

An Act to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882 ;

It is hereby enacted as follows :—

Amendment
of section 25.

1. In section 25, after the words "British India" the following shall be inserted :—

"Sessions Judges and District Magistrates are Justices of the Peace

(Secs. 2-8.)

within and for the whole of the territories administered by the Local Government under which they are serving.”

2. To section 191 the following shall be added, namely :—

Addition to
section 191.

“When a Magistrate takes cognizance of an offence under clause (c), the accused, or, when there are several persons accused, any one of them, shall be entitled to require that the case shall, instead of being tried by such Magistrate, be either transferred to another Magistrate or committed to the Court of Session.”

3. In section 443, before the words “Presidency Magistrate” the words “District Magistrate or” shall be inserted.

Amendment
of section
443.

4. In section 444, after the words “Court of Session” the words “except the Sessions Judge” shall be inserted.

Amendment
of section
444.

5. (1) In section 446, before the words “Presidency Magistrate” the words “District Magistrate or” shall be inserted.

Amendment
of section
446.

(2) To the same section the following shall be added, namely :—

“and a District Magistrate shall not pass any such sentence other than imprisonment for a term which may extend to six months, or fine which may extend to two thousand rupees, or both.”

6. Section 450 is hereby repealed.

Repeal of
section 450.
New section
substituted
for section
451.

7. For section 451 the following shall be substituted :—

“451. (1) In trials of European British subjects before a High Court or Court of Session, if, before the first juror is called and accepted, or the first assessor is appointed, as the case may be, any such subject requires to be tried by a mixed jury, the trial shall be by a jury of which not less than half the number shall be Europeans or Americans or both Europeans and Americans.

Jury or as-
sessors before
High Court
or Court of
Session.

“ (2) When any such trial before a Court of Session would in the ordinary course be with the aid of assessors, the European British subject accused, or, where there are several European British subjects accused, all of them jointly, may, instead of claiming to be tried by a mixed jury under sub-section (1), require that not less than half the number of the assessors shall be Europeans or Americans or both Europeans and Americans.”

8. After section 451 the following shall be inserted, namely :—

New sections
to follow
section 451.

“451A. (1) In trials of European British subjects before a District Magistrate, any such subject may, in a summons-case before he is heard in his defence under section 244, or in a warrant-case before he enters on his defence jury before

Right of
European
British sub-
ject to claim
jury before

(Sec. 8.)

District Magistrate.

under section 256, claim that the trial shall be by a jury composed in manner prescribed by section 451.

“(2) If a claim is made under sub-section (1) in a summons-case at the time when the Magistrate proceeds under section 244 to hear the accused, or in a warrant-case at the time when the Magistrate calls upon the accused under section 256 to enter upon the defence, the Magistrate shall forthwith issue the necessary orders for the trial by a jury as aforesaid.

“(3) If such a claim is made at an earlier stage of the proceedings, the Magistrate shall issue such orders whenever it appears to him from the evidence recorded that there will be a sufficient case to go before a jury.

“(4) In every such case the Magistrate shall, notwithstanding anything contained in section 242, before issuing any orders as aforesaid, frame a formal charge.

“(5) The provisions of sections 211, 216, 217, 219 and 220 shall, so far as may be, apply for the purpose of securing the attendance of the complainant, the accused and the witnesses at every trial to be held under this section.

“(6) The provisions of this Code relating to the procedure in a trial by jury before a Court of Session shall, as nearly as may be, apply to every trial under this section as if the District Magistrate were a Sessions Judge and the accused had been committed to his Court for trial.

“(7) All Courts may construe any of the provisions referred to in sub-section (5) or sub-section (6), in so far as they are made applicable by that sub-section, with such verbal alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before them.

“(8) Nothing in this section shall affect the power of the Magistrate to commit an accused person for trial under section 347 or section 447.

Transfer to another Court in certain cases.

“451B. (1) If an accused person claims to be tried by jury under section 451A, and in the opinion of the District Magistrate there is reason to believe that a jury composed in manner prescribed by section 451 cannot be constituted for the trial before himself or cannot be so constituted without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable, he may, instead of issuing orders for the trial before himself under section 451A, transfer the case for trial to such other District Magistrate or to such Sessions Judge as the High Court may, from time to time, by rules made by it in this behalf and approved by the Local Government, or by special order, direct.

“(2) When a case is transferred under this section to a Sessions Judge or District Magistrate, he shall with all convenient speed try it with the same

(Secs. 9-15.)

powers (including the power of commitment) and according to the same procedure as if he were a District Magistrate acting under section 451A."

9. The last sixteen words of section 459 are hereby repealed; and in the same section, after the words "any Magistrate" the words "or any Judge presiding in a Court of Session" shall be inserted. Amendment of section 459.

10. In section 462, after the figures "460" the following shall be inserted, namely:—"or before the Court of a District Magistrate or Sessions Judge proceeding under section 451A or 451B." Amendment of section 462.

11. (1) In section 526, after clause (7), the following shall be inserted, namely:— Amendment of section 526.

"or

"(c) that such an order is expedient for the ends of justice."

(2) In the same section, after clause (3), the following shall be inserted, namely:—

"or

"(4) that an accused person be committed for trial to itself or to a Court of Session."

12. After section 526 the following section shall be inserted, namely:—

New section inserted after section 526.

"526A. If, in any criminal case or appeal, before the commencement of the hearing, the public prosecutor, the complainant or the accused notifies to the Court before which the case or appeal is pending his intention to make an application under section 526 in respect of the case, the Court shall exercise the powers of postponement or adjournment given by section 344 in such a manner as will afford a reasonable time for the application being made and an order being obtained thereon, before the accused is called on for his defence, or, in the case of an appeal, before the hearing of the appeal." Adjournment on application under section 526.

13. To section 528 the following shall be added, namely:—

Addition to section 528.

"A Magistrate making an order under this section shall record in writing his reason for making the same."

X of 1882.

14. (1) In this Act, "section" means section of the Code of Criminal Procedure, 1882. Construction.

(2) All references to that Code made in enactments heretofore passed or hereafter to be passed shall be read as if made to that Code as amended by this Act.

15. This Act may be called the Criminal Procedure Code Amendment Act, 1884; and it shall come into force on the first day of May, 1884.

Short title and commencement.

THE INDIAN EXPLOSIVES ACT, 1884.

CONTENTS.

SECTIONS.

1. Short title.
Local extent.
2. Commencement.
3. Repeal of portions of Act XII of 1875.
4. Definitions.
5. Power to make rules as to licensing of the manufacture, possession, use, sale, transport and importation of explosives.
6. Power for Governor General in Council to prohibit the manufacture, possession or importation of specially dangerous explosives.
7. Power to make rules conferring powers of inspection, search, seizure, detention and removal.
8. Notice of accidents.
9. Inquiry into accidents.
10. Forfeiture of explosives.
11. Distress of vessel.
12. Abetment and attempts.
13. Power to arrest without warrant persons committing dangerous offences.
14. Saving for manufacture, possession, use, sale, transport or importation by Government.
15. Saving of Indian Arms Act, 1878.
16. Saving as to liability under other law.
17. Extension of definition of "explosive" to other explosive substances.
18. Procedure for making, publication and confirmation of rules.

ACT No. IV of 1884.

Received the Governor General's assent on the 26th February, 1884.

An Act to regulate the manufacture, possession, use, sale, transport and importation of Explosives.

WHEREAS it is expedient to regulate the manufacture, possession, use, sale, transport and importation of explosives; It is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Indian Explosives Act, 1884; and

Local extent.

(2) It extends to the whole of British India.

Commence-
ment.

2. (1) This Act shall come into force on such day as the Governor General in Council, by notification in the *Gazette of India*, appoints:

(Secs. 3-5)

(2) Provided that any notification or rule may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section 18, sub-section (2), shall not take effect until the Act comes into force.

1875 3. On and from the day on which this Act comes into force, section 7, clause (o), and sections 28 to 34 (both inclusive), of the Indian Ports Act, 1875, shall be repealed. Repeal of portions of Act XII of 1875.

4. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) “explosive”—

(a) means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above-mentioned or not, used or manufactured with a view to produce a practical effect by explosion, or a pyrotechnic effect; and

(b) includes fog-signals, fireworks, fuzes, rockets, percussion-caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined :

(2) “manufacture” includes the process of dividing into its component parts, or otherwise breaking up or unmaking, any explosive, or making fit for use any damaged explosive, and the process of re-making, altering or repairing any explosive :

(3) “vessel” includes every ship, boat and other vessel used in navigation, whether propelled by oars or otherwise :

(4) “carriage” includes any carriage, wagon, cart, truck, vehicle or other means of conveying goods or passengers by land, in whatever manner the same may be propelled :

(5) “master” includes every person (except a pilot or harbour-master) having for the time being command or charge of a vessel : provided that, in reference to any boat belonging to a ship, “master” shall mean the master of the ship :

(6) “import” means to bring into British India by sea or land.

5. (1) The Governor General in Council may for any part of British India, and each Local Government, with the previous sanction of the Governor General in Council, may for any part of the territories under its administration, make rules consistent with this Act to regulate or prohibit, except under and in accordance with the conditions of a license granted as provided by those Power to make rules as to licensing of the manufacture, possession, use, sale, transport and

(Sec. 6.)

importation of explosives rules, the manufacture, possession, use, sale, transport and importation of explosives, or any specified class of explosives.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say :—

- (a) the authority by which licenses may be granted ;
- (b) the fees to be charged for licenses, and the other sums (if any) to be paid for expenses by applicants for licenses ;
- (c) the manner in which applications for licenses must be made, and the matters to be specified in such applications ;
- (d) the form in which, and the conditions on and subject to which, licenses must be granted ;
- (e) the period for which licenses are to remain in force ; and
- (f) the exemption absolutely or subject to conditions of any explosives from the operation of the rules.

(3) The authority making rules under this section may by the rules impose penalties on all persons manufacturing, possessing, using, selling, transporting or importing explosives in breach of the rules, or otherwise contravening the rules :

Provided that the maximum penalty which may be imposed by any such rules shall not exceed—

- (a) in the case of a person so importing or manufacturing an explosive, a fine which may extend to three thousand rupees ;
- (b) in the case of a person so possessing, using or transporting an explosive, a fine which may extend to one thousand rupees ;
- (c) in the case of a person so selling an explosive, a fine which may extend to five hundred rupees ; and
- (d) in any other case, two hundred rupees.

6. (1) Notwithstanding anything in the rules under the last foregoing section, the Governor General in Council may, from time to time, by notification in the *Gazette of India*,—

- (a) prohibit, either absolutely or subject to conditions, the manufacture, possession or importation of any explosive which is of so dangerous a character that, in the opinion of the Governor General in Council, it is expedient for the public safety to issue the notification ; and
- (b) cancel any notification under this section.

(2) The officers of sea-customs at every port shall have the same power in respect of any explosive with regard to the importation of which a notification has been issued under this section, and the vessel containing the explosive as

Power for Governor General in Council to prohibit the manufacture, possession or importation of specially dangerous explosives.

they have for the time being in respect of any article the importation of which is prohibited or regulated by the law relating to sea-customs^a and the vessel containing the same; and the enactments for the time being in force relating to sea-customs^a or any such article or vessel shall apply accordingly.

(5) Any person manufacturing, possessing or importing an explosive in contravention of a notification issued under this section shall be punished with fine which may extend to three thousand rupees; and, in the case of importation by water, the owner and master of the vessel in which the explosive is imported shall, in the absence of reasonable excuse, each be punished with fine which may extend to three thousand rupees.

7. (1) The Governor General in Council, or the Local Government with the previous sanction of the Governor General in Council, may make rules consistent with this Act authorizing any officer, either by name or in virtue of his office,—

Power to make rules conferring powers of inspection, search, seizure, detention and removal.

- (a) to enter, inspect and examine any place, carriage or vessel in which an explosive is being manufactured, possessed, used, sold, transported or imported under a license granted under this Act, or in which he has reason to believe that an explosive has been or is being manufactured, possessed, used, sold, transported or imported in contravention of this Act or of the rules made under this Act;
- (b) to search for explosives therein;
- (c) to take samples of any explosive found therein, on payment of the value thereof; and
- (d) to seize, detain, remove and, if necessary, destroy any explosive found therein.

f 1882.

(2) The provisions of the Code of Criminal Procedure relating to searches^b under that Code shall, so far as the same are applicable, apply to searches by officers authorized by rules under this section.

8. Whenever there occurs in or about, or in connection with, any place in which an explosive is manufactured, possessed or used, or any carriage or vessel either conveying an explosive or on or from which an explosive is being loaded or unloaded, any accident by explosion or by fire attended with loss of human life or serious injury to person or property, or of a description usually attended with such loss or injury, the occupier of the place, or the master of the vessel, or the person in charge of the carriage, as the case may be, shall

Notice of accidents.

^a See Act VIII of 1878.

^b See Act X of 1882, Chapter VII.

forthwith give notice thereof to the officer in charge of the nearest police-station.

Inquiry into
accidents.

9. (1) Whenever, in the opinion of a District Magistrate, Sub-divisional Magistrate or any other Magistrate specially empowered by the Local Government in this behalf, an inquiry is necessary into the cause of any accident of the description mentioned in section 8, he may either himself make the inquiry or direct a Magistrate subordinate to himself to make the inquiry.

(2) Any Magistrate making an inquiry under this section shall, for the purposes of conducting the inquiry, have all the powers which he would have in holding an inquiry into an offence under the Code of Criminal Procedure. X of 1882.

(3) The powers conferred on a Magistrate by this section may in a Presidency-town be exercised by the Commissioner of Police as well as by any Magistrate specially empowered in this behalf under sub-section (1).

Forfeiture
of explosives.

10. When a person is convicted of an offence punishable under this Act or the rules made under this Act, the Court before which he is convicted may direct that the explosive, or ingredient of the explosive, or the substance (if any) in respect of which the offence has been committed, or any part of that explosive, ingredient or substance, shall, with the receptacles containing the same, be forfeited.

Distress of
vessel.

11. Where the owner or master of a vessel is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that vessel, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct it to be levied by distress and sale of the vessel, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Abetment
and attempts.

12. Whoever abets, within the meaning of the Indian Penal Code, the commission of an offence punishable under this Act, or the rules made under this Act, or attempts to commit any such offence and in such attempt does any act towards the commission of the same, shall be punished as if he had committed the offence. XLV of 1860.

Power to
arrest with-
out warrant
persons
committing
dangerous
offences.

13. Whoever is found committing any act for which he is punishable under this Act or the rules under this Act, and which tends to cause explosion or fire in or about any place where an explosive is manufactured or stored, or any railway or port, or any carriage, ship or boat, may be apprehended without a warrant by a Police-officer, or by the occupier of, or the agent or servant of, or other person authorized by, the occupier of, that place, or by any agent or servant of, or other person authorized by, the railway-administration or conservator of the port, and be removed from the

place where he is arrested and conveyed as soon as conveniently may be before a Magistrate.

14. Nothing in this Act shall apply to the manufacture, possession, use, sale, transport or importation of any explosive—

(a) by order of the Government, or

(b) by any person employed under the Government in the execution of this Act, or as a keeper of a magazine, artizan, soldier, sailor, policeman or otherwise, or enrolled as a volunteer under the Indian Volunteers Act, 1869, in the course of his employment or duty as such.

Saving for manufacture, possession, use, sale, transport or importation by Government.

XX of 1869.

XI of 1878.

15. Nothing in this Act shall affect the provisions of the Indian Arms Act, 1878 :

Saving of Indian Arms Act, 1878.

Provided that an authority granting a license under this Act for the manufacture, possession, sale, transport or importation of an explosive may, if empowered in this behalf by the rules under which the license is granted, direct by an order written on the license that it shall have the effect of a license granted under the said Indian Arms Act.

XI of 1878.

16. Nothing in this Act or the rules under this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or those rules, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or those rules :

Saving as to liability under other law.

Provided that a person shall not be punished twice for the same offence.

17. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare that any substance which appears to the Governor General in Council to be specially dangerous to life or property, by reason either of its explosive properties or of any process in the manufacture thereof being liable to explosion, shall be deemed to be an explosive within the meaning of this Act; and the provisions of this Act (subject to such exceptions, limitations and restrictions as may be specified in the notification) shall accordingly extend to that substance in like manner as if it were included in the definition of the term "explosive" in this Act.

Extension of definition of "explosive" to other explosive substances.

18. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

Procedure for making, publication and confirmation of rules.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect, if it is made by the Governor General in Council until it has been published in the *Gazette of India*, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made, and, if it requires sanction, that it has been duly sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE INLAND STEAM-VESSELS ACT, 1884.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
2. Commencement.
3. Repeal of enactments.
4. Reference to repealed Acts in other Acts, Regulations and Notifications.
5. Definitions.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSELS.

6. Inland steam-vessel not to proceed on voyage without a certificate of survey.
7. Appointment of surveyors and places of survey.
8. Powers of surveyors.
9. Declaration of surveyor.
10. Sending of declaration by owner or master to Local Government.
11. Grant of certificate of survey by Local Government.
12. Fees for certificates of survey.
13. Certificate of survey to be affixed in conspicuous part of steam-vessel.

SECTIONS.

14. Term of certificates of survey.
15. Cancellation or suspension of certificate of survey by Local Government.
16. Power to require delivery of expired or cancelled certificate.
17. Report of cancellation or suspension of certain certificates.
18. Power for Local Government to direct that two surveyors be employed.
19. Power for Local Government to order a second survey.
20. Division of duties when two surveyors employed.
21. Power for Local Government to make rules as to surveys.

CHAPTER III.

MASTERS AND ENGINEERS OF INLAND STEAM-VESSELS.

22. Appointment of examiners.
23. Grant of masters' certificates of competency.
24. Grant of engineers' and engine-drivers' certificates of competency.
25. Power for Local Government to require re-examination or further inquiry.
26. Certificates to be made in duplicate.
27. Copy of certificate to be granted in certain cases.
28. Number of engineers and nature of certificates necessary in case of different steam-vessels.
29. Power for Local Government to make rules as to grant of certificates of competency.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

30. Report of casualties to be made to Local Government.
31. Power for Local Government to appoint special Court of Investigation.
32. Power for principal Court of ordinary criminal jurisdiction to hold investigations into casualties when so directed.
33. Power for Court of Investigation to inquire into charges against masters, engineers and engine-drivers.
34. Power for Local Government to direct investigation into charges of incompetency or misconduct.
35. Person accused to be heard.
36. Assessors.
37. Power of Court as to evidence and regulation of proceedings.
38. Power to arrest witnesses and cause entry and detention of vessels.
39. Power to commit for trial and bind over witnesses.
40. Depositions.
41. Report by Court to Local Government.
42. Power to investigate causes of explosions on board inland steam-vessels.

CHAPTER V.

SUSPENSION AND CANCELLATION OF MASTERS' AND ENGINEERS' CERTIFICATES.
SECTIONS.

43. Power for Local Government to suspend or cancel certificates in certain cases.
 44. Obligation to deliver up cancelled or suspended certificate.
 45. Report to other Local Governments.
 46. Power to revoke cancellation or suspension and to grant new certificate.
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CHAPTER VI.

PROTECTION OF INLAND STEAM-VESSELS FROM DANGER BY FIRE.

47. Power for Governor General in Council to declare dangerous goods.
 48. Carriage of dangerous goods.
 49. Power to throw overboard dangerous goods.
 50. Power for Local Government to make rules for protection of inland steam-vessels from danger by explosion or fire.
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CHAPTER VII.

CARRIAGE OF PASSENGERS IN INLAND STEAM-VESSELS.

51. Power for Local Government to make rules for the regulation of the carriage of passengers in inland steam-vessels.
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CHAPTER VIII.

PENALTIES AND LEGAL PROCEEDINGS.

52. Penalty for inland steam-vessel making a voyage without certificate of survey.
53. Penalty for neglect to affix certificate of survey in inland steam-vessel.
54. Penalty for neglect or refusal to deliver up certificate of survey.
55. Penalty for serving, or engaging a person to serve, as master, engineer or engine-driver without certificate.
56. Penalty for master failing to give notice of wreck or casualty.
57. Penalty for master, engineer or engine-driver failing to deliver up cancelled or suspended certificate.
58. Penalty for taking dangerous goods on board inland steam-vessel without notice.
59. Penalty for misconduct endangering inland steam-vessel or life or limb.
60. Distress of inland steam-vessel.
61. Jurisdiction of Magistrates.
62. Place of trial.
63. Saving of prosecutions under other laws.

CHAPTER IX.

SUPPLEMENTAL.

SECTIONS.

64. Power for Local Government to exempt certain inland steam-vessels from Chapters II and III.
65. Power for Local Government to define tidal water.
66. Fees recoverable as fines.
67. Exemption of Government vessels.
68. Certificated masters of inland steam-vessels to be deemed pilots under Act XII of 1875.
69. Procedure for making, publication and confirmation of rules.

The First Schedule.—Acts repealed.

The Second Schedule.—Rates of fees.

ACT No. VI OF 1884.

Received the Governor General's assent on the 29th February, 1884.

An Act to amend the law relating to the Survey, and the Examination and Grant of Certificates to Engineers, of Inland Steam-vessels, and to provide for certain other matters relating to those vessels.

WHEREAS it is expedient to amend the law relating to the survey of inland steam-vessels and the examination and grant of certificates to engineers of those vessels ;

And whereas it is also expedient to provide for the grant of certificates to the masters of inland steam-vessels, and for investigations into casualties affecting, and into charges against masters and engineers of, those vessels, and for the protection of passengers and goods carried thereon from danger by fire, and for the regulation of the carriage of passengers therein ;

It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Inland Steam-vessels Act, 1884.

Short title
and extent.

(2) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort St. George in Council.

(Chapter I.—Preliminary. Secs. 2-4.)

(3) But the Governor of Fort St. George in Council may, at any time, by notification in the local official Gazette, extend this Act or any part thereof to the whole or any part of the territories under his administration.

Commence-
ment.

2. (1) This Act shall come into force in the whole of British India, except the territories administered by the Governor of Fort St. George in Council, on such day as the Governor General in Council, by notification in the *Gazette of India*, directs.

(2) If the Governor of Fort St. George in Council extends this Act or any part thereof to the whole or any part of the territories under his administration, the Act or part so extended shall come into force in the local area to which it is so extended on such day as the Governor in Council, by the notification extending the Act or part, directs :

(3) Provided that any notification, rule or appointment may be made under this Act at any time after the passing thereof, but, except in the case of a notification under section 69, sub-section (2), shall not take effect until the Act or part thereof under which the notification, rule or appointment is made comes into force.

Repeal of
enactments.

3. (1) On and from the day on which this Act comes into force, elsewhere than in the territories administered by the Governor of Fort St. George in Council, the Acts mentioned in the first column of the first schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof.

(2) But all proceedings commenced, investigations held, and certificates granted, cancelled or suspended under any of the said Acts shall be deemed to have been respectively commenced, held, granted, cancelled or suspended under this Act or under the Indian Steam-ships Act, 1884, as the case may be.

VII of 1881.

(3) For the purposes of the last foregoing sub-section, a certificate granted to the commander of an inland steam-vessel under Bengal Act VII of 1879^a (to provide for the proper management of certain inland steam-vessels) shall be deemed to be a first-class master's certificate granted under this Act; and an engineer's certificate, whether of competency or service, granted under any other of the Acts repealed by this Act shall be deemed to be an engineer's certificate granted under this Act or a first-class engineer's certificate granted under the Indian Steam-ships Act, 1884, as the case may be.

Ben. VII of
1879.

VII of 1884.

Reference to
repealed Acts
in other Acts,
Regulations
and Notifica-
tions.

4. When in any Act, Regulation or Notification passed or issued before this Act comes into force, reference is made to any Act repealed by this Act, the reference shall, so far as may be practicable, be read as applying to this

^a Repealed by this Act—see Schedule I.

(*Chapter II.—Survey of Inland Steam-vessels. Secs. 5-7.*)

Act or the Indian Steam-ships Act, 1884, or the corresponding part of this Act or that Act, as the case may be.

5. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) "vessel" includes anything made for the conveyance by water of human beings or of property :

(2) "steam-vessel" means every description of vessel propelled wholly or in part by the agency of steam :

(3) "inland water" means any canal, river, navigable lake or water in British India :

(4) "inland steam-vessel" means a steam-vessel which ordinarily plies on inland water :

(5) "voyage" includes also the plying of a vessel at or about any place :

(6) "master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a vessel :

(7) "passenger" includes any person carried in a steam-vessel, other than the master and crew and the owner, his family and servants : and

(8) "prescribed" means prescribed by a rule made by the Local Government under this Act.

CHAPTER II.

SURVEY OF INLAND STEAM-VESSELS.

6. (1) An inland steam-vessel shall not proceed on any voyage unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed. Inland steam-vessel not to proceed on voyage without a certificate of survey.

(2) Nothing in this section shall apply to any steam-vessel proceeding on a voyage during the interval between the time at which her certificate under this Act expires and the time at which it is first practicable to have the certificate renewed.

7. (1) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such places within the territories under its administration as it, from time to time, appoints to be places of survey. Appointment of surveyors and places of survey.

(2) Every surveyor appointed under this Act may be suspended or removed by the Local Government which appointed him.

(3) Every surveyor appointed under this Act shall, for the purposes of

(Chapter II.—Survey of Inland Steam-vessels. Secs. 8-10.)

any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

Powers of
surveyors.

8. (1) For the purposes of a survey under this Act, any surveyor appointed under this Act may, at any reasonable time, go on board any inland steam-vessel, and may inspect the steam-vessel and every part thereof, and the machinery, equipments or articles on board thereof :

Provided that he does not unnecessarily hinder the loading or unloading of the steam-vessel, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-vessel shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-vessel, and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

Declaration
of surveyor.

9. When a survey under this Act is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner or master of the steam-vessel surveyed a declaration in the prescribed form containing the following particulars, namely :—

- (a) that the hull and machinery of the steam-vessel are sufficient for the service intended and in good condition ;
- (b) that the equipments of the steam-vessel and the certificates of the master and engineer or engine-driver are such and in such condition as are required by any law for the time being in force and applicable to the steam-vessel ;
- (c) the time (if less than one year) for which the hull, machinery and equipments of the steam-vessel will be sufficient ;
- (d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-vessel is in the surveyor's judgment not fit to ply ;
- (e) the number of passengers (if any) which the steam-vessel is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins ; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances as the case requires ; and
- (f) any other prescribed particulars.

Sending of
declaration
by owner or

10. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt

(Chapter II.—Survey of Inland Steam-vessels. Secs. 11-13.)

thereof, send the declaration to such officer as the Local Government, from time to time, appoints in this behalf.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey in addition to the fee payable for the certificate.

11. (1) Upon receipt of a declaration by the officer appointed in this behalf under the last foregoing section, the Local Government shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the place at which the steam-vessel was surveyed as the Local Government, from time to time, appoints in this behalf, to the owner or master of the steam-vessel surveyed, on his applying and paying the fees and other sums (if any) in this Act mentioned as payable on delivery of a certificate.

(2) A certificate granted under this section shall be in such form as the Governor General in Council from time to time directs; shall contain a statement to the effect that the provisions of this Act with respect to the survey of the steam-vessel and the transmission of the declaration in respect thereof have been complied with; and shall set forth—

(a) the particulars concerning the steam-vessel which clauses (c), (d) and (e) of section 9 require the declaration by the surveyor to contain, and

(b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-vessel to which the certificate relates.

12. For every certificate of survey granted by the Local Government under this Act the owner or master of the steam-vessel surveyed shall pay to the officer through whom the certificate is delivered to him—

(a) a fee calculated on the tonnage of the steam-vessel according to the rates in the second schedule hereto annexed, or according to any other prescribed rates; and

(b) when the survey is made in any place of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense (if any) of the journey of the surveyor to the place, as the Local Government, from time to time, by notification in the official Gazette, directs.

13. The owner or master of every steam-vessel for which a certificate of

master to
Local Govern-
ment.

Grant of
certificate of
survey by
Local Govern-
ment.

Fees for cer-
tificates of
survey.

Certificate of

(Chapter II — Survey of Inland Steam-vessels. Secs. 14-19.)

survey to be affixed in conspicuous part of steam-vessel.

survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as it remains in force and the steam-vessel is in use, on some conspicuous part of the steam-vessel where it may be easily read by all persons on board thereof.

Term of certificates of survey.

14. A certificate of survey granted under this Act shall not be in force—

- (a) after the expiration of one year from the date thereof; or
- (b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient; or
- (c) after notice has been given by the Local Government, to the owner or master of the steam-vessel to which the certificate relates, that the Local Government has cancelled or suspended it.

Cancellation or suspension of certificate of survey by Local Government.

15. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

- (a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-vessel has been fraudulently or erroneously made; or
- (b) that the certificate has otherwise been granted upon false or erroneous information; or
- (c) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-vessel have sustained any injury, or have otherwise become insufficient.

Power to require delivery of expired or cancelled certificate.

16. The Local Government may require any certificate of survey which has expired or has been cancelled or suspended to be delivered up to such person as it from time to time directs.

Report of cancellation or suspension of certain certificates.

17. If the Local Government which cancels or suspends a certificate of survey granted under this Act is not the Local Government which granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government which granted the certificate.

Power for Local Government to direct that two surveyors be employed.

18. A survey under this Act shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-vessels at any place of survey, or specially in the case of any particular steam-vessel or class of steam-vessels at any such place.

Power for

19. (1) If the surveyor or surveyors making a survey under this Act

refuses or refuse to give a declaration under section 9 with regard to any steam-vessel, or gives or give a declaration with which the owner or master of the steam-vessel surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under this Act to survey the steam-vessel.

Local Gov-
ernment to
order a
second survey.

(2) The surveyors so directed shall forthwith survey the steam-vessel, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper; and their decision shall be final.

20. When a survey is made under either of the last two foregoing sections by two surveyors, each of the surveyors making the survey shall perform a prescribed portion of the duties assigned by this Act or the rules made under this Act to a surveyor making a survey.

Division of
duties when
two surveyors
employed.

21. (1) The Local Government may make rules to regulate the making of surveys under this Act.

Power for
Local Govern-
ment to make
rules as to
surveys.

(2) Rules under this section may, among other matters,—

- (a) declare the times and places at which, and the manner in which, surveys are to be made;
- (b) regulate the duties of the surveyor making a survey, and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;
- (c) declare the form in which the declarations of surveyors and certificates of survey granted under this Act are to be framed, and the nature of the particulars which are to be stated therein, respectively;
- (d) fix the rates according to which the fees payable for certificates of survey are to be calculated in the case of all or any of the places of survey within the territories under its administration; and
- (e) define the cases in, and the extent to, which under ordinary circumstances a survey may be dispensed with before the grant of a new certificate.

CHAPTER III.

MASTERS AND ENGINEERS OF INLAND STEAM-VESSELS.

22. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or as engineers or engine-drivers of inland steam-vessels.

Appointment
of examiners.

(Chapter III.—Masters and Engineers of Inland Steam-vessels. Secs. 23-25.)

Grant of
masters' cer-
tificates of
competency.

23. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class master or as a second-class master of an inland steam-vessel, as the case may be.

(2) Every certificate granted under this section shall be in the prescribed form.

Grant of
engineers'
and engine-
drivers' cer-
tificates of
competency.

24. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as an engineer or as an engine-driver of an inland steam-vessel, as the case may be.

(2) Every certificate granted under this section shall be in the prescribed form.

Power for
Local Gov-
ernment to
require re-
examination
or further
inquiry.

25. Before granting a certificate under either of the last two foregoing sections, the Local Government may, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, require a re-examination of the applicant or a further inquiry into his testimonials and character.

Certificates
to be made
in duplicate.

26. Every certificate of competency granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

Copy of cer-
tificate to be
granted in
certain cases.

27. Whenever a master or an engineer or an engine-driver proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

Number of
engineers and
nature of
certificates
necessary
in case of
different
steam-vessels.

28. (1) An inland steam-vessel having engines of 80 nominal horsepower or upwards shall not proceed on any voyage unless she has—

- (a) as her master a person possessing a first-class master's certificate granted under this Act or a master's certificate granted under Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869; and

- (b) as her engineer a person possessing an engineer's certificate granted under this Act or the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

I of 1859.

17 & 18
Vic., cap.
104, &c.

32 & 33 Vic.,
cap. 11.

VII of 1884.

17 & 18 Vic.,
cap. 104, &c.
32 & 33 Vic.,
cap. 11.

(Chapter IV.—Investigations into Casualties. Secs. 29-30.)

(2) An inland steam-vessel having engines of under 80 nominal horsepower shall not proceed on any voyage unless she has—

(a) as her master a person possessing a second-class master's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1), and

f 1884. (b) as her engineer a person possessing an engine-driver's certificate granted under this Act or the Indian Steam-ships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1) :

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a second-class master's certificate and an engine-driver's certificate granted under this Act.

29. The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

Power for Local Government to make rules as to grant of certificates of competency.

(a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters, engineers or engine-drivers under this Act ;

(b) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class masters' certificates, second-class masters' certificates, engineers' certificates and engine-drivers' certificates, respectively ;

(c) fix the fees to be paid by all applicants for examination ; and

(d) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

CHAPTER IV.

INVESTIGATIONS INTO CASUALTIES.

30. Whenever—

(a) any inland steam-vessel has been wrecked, abandoned or materially damaged, or

(b) by reason of any casualty happening to or on board of any inland steam-vessel, loss of life has ensued, or

(c) any inland steam-vessel has caused loss or material damage to any other vessel,

Report of casualties to be made to Local Government.

(Chapter IV.—Investigations into Casualties. Secs. 31-34.)

the master of the steam-vessel shall forthwith give notice of the wreck, abandonment, damage, casualty or loss to the officer in charge of the nearest police-station.

Power for
Local Gov-
ernment to
appoint spe-
cial Court
of Investi-
gation.

31. (1) If in any case a formal investigation into the facts referred to in the last foregoing section appears to the Local Government to be requisite or expedient, the Local Government may appoint a special Court, consisting of not less than two nor more than four persons, and direct the Court to make the investigation, and may fix the place for making the same.

(2) One of the members of the Court shall be a Magistrate; another shall be some person conversant with maritime affairs or the navigation of inland steam-vessels; and the other or others (if any) shall be conversant with either maritime or mercantile affairs or with the navigation of inland steam-vessels.

Power for
principal
Court of ordi-
nary criminal
jurisdiction to
hold investi-
gations into
casualties
when so
directed.

32. Any principal Court of ordinary criminal jurisdiction and the Court of any District Magistrate may, when so directed by the Local Government, make the investigation referred to in the last foregoing section.

Power for
Court of
Investigation
to inquire
into charges
against mas-
ters, engi-
neers and
engine-
drivers.

33. (1) Any Court making an investigation under either of the last two foregoing sections may inquire into any charge of incompetency or misconduct arising in the course of the investigation against any master, engineer or engine-driver, as well as into any charge of a wrongful act or default on his part causing any wreck, abandonment, damage, casualty or loss referred to in section 30.

(2) In every case in which any such charge, whether of incompetency or misconduct, or of a wrongful act or default as aforesaid, arises against any master, engineer or engine-driver in the course of an investigation, the Court shall, before the commencement of the inquiry into the charge, cause to be furnished to him a copy of the report or statement of the case upon which the investigation has been directed.

Power for
Local Gov-
ernment to
direct inves-
tigation into
charges of
incompetency
or miscon-
duct.

34. (1) If the Local Government has reason to believe that there are grounds for charging any master, engineer or engine-driver of an inland steam-vessel with incompetency or misconduct, otherwise than in the course of an investigation under section 31 or section 32, it may send a statement of the case to the principal Court of ordinary criminal jurisdiction, or the Court of the District Magistrate, at or nearest to the place at which it may be convenient for the parties and witnesses to attend, and may direct the Court to make an investigation into the charge.

(Chapter IV.—Investigations into Casualties. Secs. 35-38.)

(2) Before commencing the investigation, the Court shall cause the master or engineer or engine-driver so charged to be furnished with a copy of the statement sent by the Local Government.

35. For the purpose of an investigation under this chapter into any charge against a master, engineer or engine driver the Court may summon him to appear, and shall give him full opportunity of making a defence, either in person or otherwise. Person accused to be heard.

36. (1) When any investigation involves, or appears likely to involve, any question as to the cancelling or suspension of the certificate of a master, engineer or engine-driver, the Court making the investigation shall constitute as its assessors, for the purposes of the investigation, two persons having experience in the merchant service or in the navigation of inland steam-vessels; and in every other investigation the Court making it may, if it thinks fit, constitute as its assessor, for the purposes of the investigation, any person conversant with maritime affairs or the navigation of inland steam-vessels and willing to act as assessor. Assessors.

(2) Every person appointed under this section shall attend during the investigation and deliver his opinion in writing, to be recorded on the proceedings. But the exercise of all powers conferred on the Court by this Act shall rest with the Court.

37. For the purpose of any investigation under this chapter, the Court making the investigation, so far as relates to compelling the attendance and examination of witnesses and the production of documents and the regulation of the proceedings, shall have— Power of Court as to evidence and regulation of proceedings.

(a) if the Court is a special Court—the same powers as are exercisable by the principal Court of ordinary criminal jurisdiction for the place at which the investigation is made;

(b) if the Court is a principal Court of ordinary criminal jurisdiction or the Court of the District Magistrate—the same powers as are exercisable respectively by either Court in the exercise of its criminal jurisdiction.

38. (1) If any Court making an investigation under this chapter thinks it necessary for obtaining evidence that any person should be arrested, it may issue a warrant for his arrest, and may, for the purpose of effecting the arrest, authorize any officer (subject, nevertheless, to any general or special instructions from the Local Government) to enter any vessel. Power to arrest witness and cause entry and detention of vessels.

(2) Any officer so authorized may, for the purpose of enforcing the entry, call to his aid any officers of Police or Customs, or any other persons, and may

(Chapter IV.—Investigations into Casualties. Secs. 39-42.)

seize and detain the vessel for such time as is reasonably necessary to effect the arrest; and every such officer or other person shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV a

(3) No person shall be detained by virtue of this section for more than forty-eight hours.

Power to
commit for
trial and
bind over
witnesses.

39. (1) Whenever, in the course of any investigation, it appears that any person has committed, within the jurisdiction of any Court in British India, an offence punishable under any law in force in British India, the Court making the investigation may (subject to such rules consistent with this Act as the High Court may, from time to time, prescribe) cause him to be arrested, or commit him or hold him to bail to take his trial before the proper Court; and may bind over any person to give evidence at the trial, and may, for the purposes of this section, exercise all the powers of a Magistrate of the first class or of a Presidency Magistrate.

(2) For the purposes of this section the Recorder of Rangoon shall, within the local limits of the territories for the time being administered by the Chief Commissioner of British Burma, be deemed to be the High Court.

Depositions.

40. (1) Whenever, in the course of any such trial, the testimony of any witness is required in relation to the subject-matter, any deposition previously made by him in relation to the same subject-matter before any Court making an investigation under this chapter shall, if authenticated by the signature of the Magistrate or presiding Judge, be admissible in evidence on proof—

(a) that the witness cannot be found within the jurisdiction of the Court before which the trial is held; and

(b) that it was made in the presence of the person accused, and that he had an opportunity of cross-examining the witness.

(2) A certificate by the Magistrate or presiding Judge that the deposition was made in the presence of the accused and that he had that opportunity shall, unless the contrary be proved, be sufficient evidence that it was so made and that he had that opportunity.

Report by
Court to
Local Govern-
ment.

41. The Court shall, in the case of every investigation under this chapter, transmit to the Local Government a full report of the conclusions at which it has arrived, together with the evidence.

Power to in-
vestigate
causes of ex-
plosions on
board inland
steam-ves-
sels.

42. (1) Whenever any explosion occurs on board any inland steam-vessel, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

(2) The person or persons so directed may enter into and upon the steam-

(Chapter V.—*Suspension and Cancellation of Masters' and Engineers' Certificates. Secs. 43-45.*)

vessel, with all necessary workmen and labourers, and remove any portion of the steam-vessel, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what in his or their opinion was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

CHAPTER V.

SUSPENSION AND CANCELLATION OF MASTERS' AND ENGINEERS' CERTIFICATES.

43. Any certificate granted under this Act to any master, engineer or engine-driver may be suspended or cancelled by the Local Government which granted it, or by any other Local Government, in the following cases, that is to say:—

Power for Local Government to suspend or cancel certificates in certain cases.

- (a) if, on any investigation made under this Act, the Court reports that the wreck or abandonment of, or loss or damage to, any inland steam-vessel, or loss of life, has been caused by his wrongful act or default, or that he is incompetent, or has been guilty of any gross act of drunkenness, tyranny or other misconduct; or
- (b) if he is proved to have been convicted of any non-bailable offence; or
- (c) if, in the case of a second-class master or an engine-driver, the master or engine-driver is or has become, in the opinion of the Local Government, unfit to act as a second-class master or engine-driver:

Provided that, in any case in which an investigation has been made into a charge against any master, engineer or engine-driver, a certificate shall not be suspended or cancelled under clause (a) of this section unless the Local Government is satisfied that the holder of the certificate has been furnished before the commencement of the investigation with the copy of the report or statement required by section 33 or section 34, as the case may be.

44. Every master, engineer or engine-driver whose certificate is cancelled or suspended under the last foregoing section shall deliver it to such person as the Local Government which cancelled or suspended it from time to time directs.

Obligation to deliver up cancelled or suspended certificate.

45. If the Local Government which cancels or suspends a certificate under section 43 is not the Local Government which granted the certificate, the Local Government so cancelling or suspending the certificate shall report

Report to other Local Governments.

(Chapter VI.—Protection of Inland Steam-vessels from Danger by Fire.
Secs. 46-49.)

the proceedings, and the fact of cancellation or suspension, to the Local Government which granted the certificate.

Power to
revoke can-
cellation or
suspension
and to grant
new certifi-
cate.

46. (1) Any Local Government may at any time revoke any order of cancellation or suspension which it may have made under section 43, or grant, without examination, to any person whose certificate it has so cancelled, a new certificate.

(2) A certificate so granted shall have the same effect as if it had been granted after examination.

CHAPTER VI.

PROTECTION OF INLAND STEAM-VESSELS FROM DANGER BY FIRE.

Power for
Governor
General in
Council to
declare dan-
gerous goods.

47. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, declare what shall be deemed to be, for the purposes of this Act, dangerous goods.

Carriage of
dangerous
goods.

48. (1) A person shall not take with him on board an inland steam-vessel, and a person shall not deliver or tender for carriage on an inland steam-vessel, any dangerous goods without giving notice of their nature to the owner or master of the steam-vessel, or, in the case of goods delivered or tendered for carriage, without distinctly marking their nature on the outside of the package containing the goods.

(2) The owner or master of an inland steam-vessel may refuse to carry upon an inland steam-vessel any luggage or parcel which he suspects to contain dangerous goods, and may require the luggage or parcel to be opened to ascertain the fact previously to carrying the same; and in case any such luggage or parcel is received for the purpose of being carried in any inland steam-vessel, the owner or master of the vessel may stop the transit thereof until he is satisfied as to the nature of its contents.

Power to
throw over-
board dan-
gerous goods.

49. Where any dangerous goods have been sent or brought on board any inland steam-vessel in contravention of the last foregoing section, the owner or master of the steam-vessel may, if he thinks fit, cause the goods to be thrown overboard, together with any package or receptacle in which they are contained; and neither the owner nor the master shall, in respect of his having so thrown the goods overboard, be subject to any liability, civil or criminal, in any Court.

(Chapter VII—Carriage of Passengers in Inland Steam-vessels. Secs. 50-51.)

50. (1) The Local Government may make rules for the protection of inland steam vessels from danger by explosion or fire.

Power for Local Government to make rules for protection of inland steam-vessels from danger by explosion or fire.

(2) Rules under this section may provide for the following among other matters, that is to say:—

- (a) the conditions on, and subject to, which dangerous goods may be carried on board inland steam-vessels ;
- (b) the precautions to be taken to prevent explosions or fires on board inland steam-vessels ; and
- (c) the apparatus for the purpose of extinguishing fires which is to be kept on board inland steam-vessels.

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

CHAPTER VII.

CARRIAGE OF PASSENGERS IN INLAND STEAM-VESSELS.

51. (1) The Local Government may make rules to regulate the carriage of passengers in inland steam-vessels.

Power for Local Government to make rules for the regulation of the carriage of passengers in inland steam-vessels.

(2) Rules under this section may provide for the following among other matters, that is to say:—

- (a) the cases in which passengers may be refused admission to, or may be required to leave, inland steam-vessels ;
- (b) the payment of fares and the exhibition of tickets or receipts (if any) showing the payment of their fares by passengers in inland steam-vessels ; and
- (c) the regulation generally of the conduct of passengers in inland steam-vessels.

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with fine which may extend to twenty rupees.

(4) The master or any other officer of any inland steam-vessel, and any person called by him to his assistance, may arrest any person who has committed a breach of any rule made under this section, and whose name and address are unknown to the master or other officer.

(Chapter VIII.—Penalties and Legal Proceedings. Secs. 52-56.)

(5) The procedure prescribed by section 59 of the Code of Criminal Procedure in the case of arrest by private persons shall apply to every arrest under this section. X of 1882.

CHAPTER VIII.

PENALTIES AND LEGAL PROCEEDINGS.

Penalty for inland steam-vessel making a voyage without certificate of survey.

52. (1) If any inland steam-vessel proceeds on a voyage in contravention of section 6, the owner and master of the steam-vessel shall each be liable to a fine which may extend to one thousand rupees.

(2) If the master or any other officer on board of an inland steam-vessel which proceeds on a voyage in contravention of section 6 is a licensed pilot, he shall be liable to have his license as a pilot cancelled, or suspended for any period, by the Local Government, as the Local Government sees fit to order.

Penalty for neglect to affix certificate of survey in inland steam-vessel.

53. If the certificate of survey granted under this Act is not kept affixed in an inland steam-vessel in the manner provided by this Act, the owner and master of the steam-vessel shall each be liable to a fine which may extend to one hundred rupees.

Penalty for neglect or refusal to deliver up certificate of survey.

54. If the owner or master of an inland steam-vessel, without reasonable cause, neglects or refuses to deliver up a certificate of survey when required under this Act to do so, he shall be punished with fine which may extend to one hundred rupees.

Penalty for serving, or engaging a person to serve, as master, engineer or engine-driver without certificate.

55. (a) If any person who has been engaged to serve as master, engineer or engine-driver of an inland steam-vessel proceeds on any voyage in that steam-vessel as master, engineer or engine-driver, as the case may be, without being at the time entitled to, and possessed of, the certificate required under this Act, and

(b) if any person employs any person as a master, engineer or engine-driver of an inland steam-vessel without ascertaining that he is at the time entitled to, and possessed of, the master's, engineer's or engine-driver's certificate, as the case may be, required under this Act,

he shall be punished with fine which may extend to five hundred rupees.

Penalty for master failing to give notice of wreck or casualty.

56. If any master wilfully fails to give notice, as required by section 30, of any wreck, abandonment, damage, casualty or loss, he shall be punished with fine which may extend to five hundred rupees, and, in default of payment, to a simple imprisonment for a term which may extend to three months.

(Chapter VIII.—Penalties and Legal Proceedings. Secs. 57-62.)

57. If any master, engineer or engine-driver whose certificate is cancelled or suspended under this Act fails to deliver the certificate to such person as the Local Government which cancelled or suspended it directs, he shall be punished with fine which may extend to five hundred rupees.

Penalty for master, engineer or engine-driver failing to deliver up cancelled or suspended certificate.

58. If any person, in contravention of section 48, takes with him on board any inland steam-vessel any dangerous goods, or delivers or tenders any such goods for the purpose of being carried on any inland steam-vessel, he shall be punished with fine which may extend to two hundred rupees, and the goods shall be forfeited to Her Majesty.

Penalty for taking dangerous goods on board inland steam-vessel without notice.

59. If any person employed or engaged in any capacity on board an inland steam-vessel, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness,—

Penalty for misconduct endangering inland-steam-vessel or life or limb.

- (a) does any act tending to the immediate wreck, destruction or material damage of the vessel, or tending immediately to endanger the life or limb of any person belonging to or on board the vessel, or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the vessel from immediate wreck, destruction or material damage, or for preserving any person belonging to or on board of the vessel from immediate danger to life or limb,

he shall be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both.

60. Where the owner or master of an inland steam-vessel is convicted of an offence under this Act or the rules made under this Act, committed on board of, or in relation to, that steam-vessel, and sentenced to pay a fine, the Magistrate may, in addition to any other power he may have for the purpose of compelling payment of the fine, direct the amount thereof to be levied by distress and sale of the vessel and the tackle apparel and furniture thereof, or so much thereof as is necessary.

Distress of inland steam-vessel.

61. Except in the case of offences under rules made under section 51, no Magistrate shall try an offence under this Act, or the rules under it, unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

Jurisdiction of Magistrates.

62. If any person commits an offence against this Act or the rules made under this Act, he shall be triable for the offence in any place in which he may be found or which the Local Government, from time to time, by notifi-

Place of trial.

(Chapter IX.—Supplemental. Secs. 63-69.)

cation in the official Gazette, directs in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Saving of
prosecutions
under other
laws.

63. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under this Act, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under this Act :

Provided that a person shall not be punished twice for the same offence.

CHAPTER IX.

SUPPLEMENTAL.

Power for
Local Gov-
ernment to
exempt
certain inland
steam-vessels
from Chap-
ters II and
III.

64. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of Chapters II and III of this Act shall not apply in the case of any specified class of steam-vessels, or shall apply to them with such modifications as the Local Government prescribes.

Power for
Local Gov-
ernment to
define tidal
water.

65. The Local Government may, from time to time, by notification in the official Gazette, define how much of any tidal water shall be deemed to be an inland water for the purposes of this Act.

Fees recover-
able as fines.

66. All fees payable under this Act may be recovered as fines under this Act.

Exemption
of Govern-
ment vessels.

67. Nothing in this Act or in any rule made under this Act shall apply to any steam-vessel belonging to, or in the service of, Her Majesty or the Government of India.

Certificated
masters of
inland steam-
vessels to be
deemed pilots
under Act
XII of 1875.

68. (1) Every master of an inland steam-vessel who possesses a master's certificate duly granted under this Act and then in force shall, in ports to which section 38 of the Indian Ports Act, 1875, has been extended, be deemed, for the purposes of that section, to be the pilot of the steam-vessel of which he is in charge. XII of 1875.

(2) Nothing in this section shall be deemed to affect the provisions of Bombay Act I of 1863, which require persons in charge of vessels passing through any of the channels or tidal channels at the mouths of the River Indus to pay fees for pilotage. Bo. I of 1863.

Procedure
for making,
publication

69. (1) A Local Government making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(The First Schedule.—Acts repealed.)

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes. and confirm
ation of
rules.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect until it has been sanctioned by the Governor General in Council and published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive evidence that it has been duly made and sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE FIRST SCHEDULE.

ACTS REPEALED.

*(See section 3.)**(a) Act of the Governor General in Council.*

| Number and year | Subject or short title | Extent of repeal. |
|-----------------|------------------------------------|-------------------|
| XVI of 1871 . . | The Burmese Steamer Survey Act . . | The whole. |

(b) Acts of the Governor of Bombay in Council.

| Number and year. | Subject or short title. | Extent of repeal. |
|------------------|---|-------------------------------|
| II of 1864 . . | To provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the presidency of Bombay. | The whole, except section 15. |
| IV of 1873 . . | To amend Bombay Act II of 1864, providing for the periodical survey of steam-vessels, and to provide for the examination of engineers of steam-vessels. | The whole. |

THE FIRST SCHEDULE—*concluded.*

(c) *Acts of the Lieutenant-Governor of Bengal in Council.*

| Number and year. | Subject or short title. | Extent of repeal. |
|-------------------|--|-----------------------------------|
| V of 1862 . . . | To provide for the periodical survey of steam-vessels in the port of Calcutta. | The whole. |
| I of 1868 . . . | The Steam-boat Survey Amendment Act, 1868. | So much as has not been repealed. |
| III of 1871 . . . | To increase the fees for the survey of steam-vessels. | The whole. |
| VII of 1879 . . . | To provide for the proper management of certain inland steam-vessels. | The whole. |

THE SECOND SCHEDULE.

(See section 12.)

RATES OF FEES.

| | | | | | | Tons, | Rs. |
|--------------------------------|--------------------|---|---|---|---|-------|-----|
| For steam-vessels of less than | . | . | . | . | . | 100 | 25 |
| " " | 100 tons and up to | . | . | . | . | 200 | 40 |
| " " | 200 | " | " | " | " | 350 | 50 |
| " " | 350 | " | " | " | " | 700 | 60 |
| " " | 700 | " | " | " | " | 1,000 | 80 |
| " " | 1,000 | " | " | " | " | 1,500 | 100 |
| " " | 1,500 | " | " | " | " | | 120 |
| | | | | | | | |

THE INDIAN STEAM-SHIPS ACT, 1884.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title.
Extent.
2. Commencement.
3. Definitions.

CHAPTER II.

SURVEY OF STEAM-SHIPS.

4. Steam-ship not to carry passengers without a certificate of survey.

SECTIONS.

5. Exception of certain steam-ships.
 6. Penalty for carrying passengers without certificate of survey.
 7. No port-clearance until certificate of survey produced.
 8. Power to detain steam-ship not having certificate of survey.
 9. Appointment of surveyors and ports of survey.
 10. Powers of surveyor.
 11. Declaration of surveyor.
 12. Sending of declaration by owner or master to Local Government.
 13. Grant of certificate of survey by Local Government.
 14. Fees for certificates of survey.
 15. Certificate of survey to be affixed in conspicuous part of steam-ship.
 16. Term of certificates of survey.
 17. Cancellation or suspension of certificate of survey by Local Government.
 18. Power to require delivery of expired or cancelled certificates of survey.
 19. Report of cancellation or suspension of certain certificates.
 20. Power for Local Government to direct that two surveyors be employed.
 21. Power for Local Government to order a second survey.
 22. Division of duties when two surveyors employed.
 23. Survey of foreign steam-ships.
 24. Power for Local Government to make rules as to surveys.
 25. Power for Local Government to exempt certain steam-ships.
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CHAPTER III.

EXAMINATION AND CERTIFICATES OF ENGINEERS AND ENGINE-DRIVERS.

26. Appointment of examiners.
 27. Grant of engineers' and engine-drivers' certificates of competency.
 28. Power for Local Government to cancel engine-drivers' certificates.
 29. Certificates to be made in duplicate.
 30. Copy of certificate to be granted in certain cases.
 31. Steam-ships required to carry first-class and second-class engineers.
 32. Power for Local Government to require certain steam-ships to carry engine-drivers.
 33. Exemption of inland steam-vessels.
 34. Penalty for serving, or engaging a person to serve, as engineer or engine-driver without a certificate.
 35. Production of certificates.
 36. Power for Local Government to make rules as to grant of certificates of competency.
-

CHAPTER IV.

INVESTIGATIONS INTO EXPLOSIONS.

37. Power to investigate causes of explosions on board steam-ships.

CHAPTER V.

SUPPLEMENTAL.

SECTIONS.

- 38 Jurisdiction of Magistrates.
- 39. Place of trial.
- 40 Distress of steam-ship.
- 41. Amendment of section 13 of Act VIII of 1876.
- 42 Procedure for making, publication and confirmation of rules.

THE SCHEDULE.—Rates of Fees.

ACT No. VII of 1884.

Received the Governor General's assent on the 29th February, 1884.

**An Act to amend the law relating to the Survey of Steam-ships
and the Grant of Certificates to Engineers of those Ships.**

WHEREAS it is expedient to amend the law relating to the survey of steam-ships and the grant of certificates to engineers of those ships ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

- Short title. 1. (1) This Act may be called the Indian Steam-ships Act, 1884 ; and
- Extent. (2) It extends to the whole of British India.
- Commence-
ment. 2. (1) This Act shall come into force on such day as the Governor General
in Council, by notification in the *Gazette of India*, appoints :
- (2) Provided that any notification, rule or appointment may be made
under this Act at any time after the passing thereof, but, except in the case
of a notification under section 42, sub-section (2), shall not take effect until
the Act comes into force.
- Definitions. 3. In this Act, unless there is something repugnant in the subject or
context,—
- (1) “ steam-ship ” means every description of vessel used in navigation
and propelled wholly or in part by the agency of steam :
- (2) “ British steam-ship ” includes a steam-ship registered under Act XIX
of 1838, Act X of 1841 or Act XI of 1850, or under any other law passed by
the Governor General in Council and for the time being in force for the regis-
tration of ships in India :

XIX of 1838.
X of 1841
XI of 1850.

(Chapter II.—Survey of Steam-ships. Secs. 4-6)

(3) "master" means any person (except a pilot or harbour-master) having for the time being control or charge of a steam-ship :

(4) "passenger" includes any person carried in a steam-ship other than the master and crew and the owner, his family and servants : and

(5) "prescribed" means prescribed by a rule made by the Local Government under this Act.

CHAPTER II.

SURVEY OF STEAM-SHIPS.

4. A steam-ship shall not carry more than twelve passengers between places in British India, and

a British steam-ship shall not carry more than twelve passengers to or from any place in British India from or to any place out of British India,

unless she has a certificate of survey under this Act in force and applicable to the voyage on which she is about to proceed or the service on which she is about to be employed.

Steam ship not to carry passengers without a certificate of survey.

5. Nothing in the last foregoing section shall apply to—

(a) any steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government, unless it appears from the certificate that it is inapplicable to the voyage on which the steam-ship is about to proceed, or the service on which she is about to be employed, or unless there is reason to believe that the steam-ship has, since the grant of the certificate, sustained injury or damage, or been found unseaworthy or otherwise inefficient ; or

Exception of certain steam-ships

(b) any steam-ship having a certificate of survey granted under the Inland Steam-vessels Act, 1884, in force and applicable to the voyage on which the steam-ship is about to proceed or the service on which she is about to be employed ; or

(c) any steam-ship belonging to, or in the service of, Her Majesty or the Government of India ; or

(d) any steam-ship belonging to any foreign Prince or State when employed mainly on the public service of the Prince or State ; or

(e) any steam-ship carrying passengers during the interval between the time at which her certificate of survey under this Act expires and the time at which it is first practicable to have the certificate renewed

6. (1) If any steam-ship carries or attempts to carry passengers in contra. Penalty

(Chapter II.—Survey of Steam-ships. Secs. 7-11.)

carrying
passengers
without
certificate
of survey.

vention of section 4, the owner and master of the steam-ship shall each be liable to a fine which may extend to one thousand rupees.

(2) If the master or any other officer of any steam-ship which carries or attempts to carry passengers in contravention of section 4 is a licensed pilot, he shall be liable to have his license as a pilot cancelled, or suspended for any period, by the Local Government, as the Local Government sees fit to order.

No port-
clearance
until certi-
cate of
survey pro-
duced.

7. No officer of Customs shall grant a port-clearance, nor shall any pilot be assigned, to any steam-ship for which a certificate of survey is required by section 4, until after the production by the owner or master thereof of a certificate under this Act in force and applicable to the voyage on which she is about to proceed and the service on which she is about to be employed.

Power to
detain steam-
ship not
having certi-
cate of sur-
vey.

8. If any steam-ship for which a certificate of survey is required by section 4 leaves or attempts to leave any port of survey without a certificate, any officer of Customs or any pilot on board the steam-ship may detain her until she obtains a certificate.

Appointment
of surveyors
and ports of
survey.

9. (1) The Local Government may, from time to time, appoint so many persons as it thinks fit to be surveyors for the purposes of this Act at such ports within the territories under its administration as it, from time to time, appoints to be ports of survey.

(2) Every surveyor appointed under this Act may be suspended or removed by the Local Government which appointed him.

(3) Every surveyor appointed under this Act shall, for the purposes of any survey made by him, be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860.

Powers of
surveyor.

10. (1) For the purposes of a survey under this Act, any surveyor appointed under this Act may, at any reasonable time, go on board a steam-ship, and may inspect the steam-ship and every part thereof, and the machinery, equipments or articles on board thereof:

Provided that he does not unnecessarily hinder the loading or unloading of the steam-ship, or unnecessarily detain or delay her from proceeding on any voyage.

(2) The owner, master and officers of the steam-ship shall afford to the surveyor all reasonable facilities for a survey, and all such information respecting the steam-ship and her machinery and equipments, or any part thereof, respectively, as he reasonably requires.

Declaration
of surveyor.

11. When a survey under this Act is completed, the surveyor making it shall forthwith, if satisfied that he can with propriety do so, give to the owner

(Chapter II.—Survey of Steam-ships. Secs. 12-13.)

or master of the steam-ship surveyed a declaration in the prescribed form containing the following particulars, namely :—

- (a) that the hull and machinery of the steam-ship are sufficient for the service intended and in good condition ;
- (b) that the equipments of the steam-ship and the certificates of the master, mate or mates, and engineer or engineers or engine-driver, are such and in such condition as are required by any law for the time being in force and applicable to the steam-ship ;
- (c) the time (if less than one year) for which the hull, machinery and equipments of the steam-ship will be sufficient ;
- (d) the limit (if any) beyond which, as regards the hull, machinery or equipments, the steam-ship is in the surveyor's judgment not fit to ply ;
- (e) the number of passengers which the steam-ship is, in the judgment of the surveyor, fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins ; the number to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried or other circumstances, as the case requires ; and
- (f) any other prescribed particulars.

12. (1) The owner or master to whom a declaration is given under the last foregoing section shall, within fourteen days after the date of the receipt thereof, send the declaration to such officer as the Local Government, from time to time, appoints in this behalf.

Sending of declaration by owner or master to Local Government.

(2) If he fails to do so, he shall forfeit a sum not exceeding five rupees for every day during which the sending of the declaration is delayed.

(3) The owner or master shall pay the sum so forfeited on the delivery of the certificate of survey in addition to the fee payable for the certificate.

13. (1) Upon receipt of a declaration by the officer appointed in this behalf under the last foregoing section, the Local Government shall, if satisfied that the provisions of this Act have been complied with, cause a certificate in duplicate to be prepared and delivered, through such officer at the port at which the steam-ship was surveyed as the Local Government, from time to time, appoints in this behalf, to the owner or master of the steam-ship surveyed, on his applying and paying the fees and other sums (if any) mentioned in this Act as payable on delivery of a certificate.

Grant of certificate of survey by Local Government.

(2) A certificate granted under this section shall be in such form as the Governor General in Council from time to time directs ; shall contain a

(Chapter II.—Survey of Steam-ships. Secs. 14-16.)

statement to the effect that the provisions of this Act with respect to the survey of the steam-ship and the transmission of the declaration in respect thereof have been complied with ; and shall set forth—

- (a) the particulars concerning the steam-ship which clauses (c), (d) and (e) of section 11 require the declaration by the surveyor to contain ; and
- (b) any other prescribed particulars.

(3) When a certificate is ready for delivery under this section, the Local Government shall cause notice thereof to be given by post or otherwise to the owner or master of the steam-ship to which the certificate relates.

Fees for certificates of survey.

14. For every certificate of survey granted by the Local Government under this Act the owner or master of the steam-ship surveyed shall pay to the officer through whom the certificate is delivered to him—

- (a) a fee calculated on the tonnage of the steam-ship according to the rates in the schedule hereto annexed or according to any other prescribed rates ; and
- (b) when the survey is made in any port of survey other than Calcutta, Madras, Bombay or Rangoon, such additional fee, in respect of the expense, if any, of the journey of the surveyor to the port, as the Local Government, from time to time, by notification in the official Gazette, directs.

Certificate of survey to be affixed in conspicuous part of steam-ship.

15. (1) The owner or master of every steam-ship for which a certificate of survey has been granted under this Act shall forthwith, on the receipt of the certificate, cause one of the duplicates thereof to be affixed, and kept affixed so long as the certificate remains in force and the steam-ship is in use, on some conspicuous part of the steam-ship where it may be easily read by all persons on board thereof.

(2) If the certificate is not so kept affixed, the owner and master of the steam-ship shall each be liable to a fine which may extend to one hundred rupees.

Term of certificates of survey.

16. A certificate of survey granted under this Act shall not be in force—

- (a) after the expiration of one year from the date thereof ; or
- (b) after the expiration of the period, if less than one year, for which the hull, boilers, engines or any of the equipments have been stated in the certificate to be sufficient ; or
- (c) after notice has been given, by the Local Government, to the owner or master of the steam-ship to which the certificate relates, that the Local Government has cancelled or suspended it

(Chapter II—Survey of Steam-ships. Secs. 17-22.)

17. Any certificate of survey granted under this Act may be cancelled or suspended by a Local Government if it has reason to believe—

Cancellation or suspension of certificate of survey by Local Government.

- (a) that the declaration by the surveyor of the sufficiency and good condition of the hull, boilers, engines or any of the equipments of the steam-ship has been fraudulently or erroneously made; or
- (b) that the certificate has otherwise been issued upon false or erroneous information; or
- (c) that, since the making of the declaration, the hull, boilers, engines or any of the equipments of the steam-ship have sustained any injury, or have otherwise become insufficient.

18. (1) The Local Government may require any certificate of survey granted under this Act which has expired, or has been cancelled or suspended, to be delivered up to such person as it from time to time directs.

Power to require delivery of expired or cancelled certificates of survey.

(2) If the owner or master of a steam-ship, without reasonable cause, neglects or refuses to deliver up a certificate as required under this section, he shall be punished with fine which may extend to one hundred rupees.

19. If the Local Government which cancels or suspends a certificate of survey granted under this Act is not the Local Government which granted the certificate, the Local Government cancelling or suspending the certificate shall report the fact of cancellation or suspension, together with the reasons therefor, to the Local Government which granted the certificate.

Report of cancellation or suspension of certain certificates.

20. A survey under this Act shall ordinarily be made by one surveyor, but two surveyors may be employed if the Local Government, by order in writing, so directs, either generally in the case of all steam-ships at any port of survey, or specially in the case of any particular steam-ship or class of steam-ships at any such port.

Power for Local Government to direct that two surveyors be employed.

21. (1) If the surveyor or surveyors making a survey under this Act refuses or refuse to give a declaration under section 11 with regard to any steam-ship, or gives or give a declaration with which the owner or master of the steam-ship surveyed is dissatisfied, the Local Government may, on the application of the owner or master, direct two other surveyors appointed under this Act to survey the steam-ship.

Power for Local Government to order a second survey.

(2) The surveyors so directed shall forthwith survey the steam-ship, and may, after the survey, either refuse to give a declaration or give such declaration as under the circumstances seems to them proper; and their decision shall be final.

22. When a survey is made under either of the last two foregoing sections by two surveyors, each of the surveyors making the survey shall perform a

Division of duties when

(Chapter II.—Survey of Steam-ships. Secs. 23-25.)

two surveyors
employed.

prescribed portion of the duties assigned by this Act or the rules made under this Act to a surveyor making a survey.

Survey of
foreign
steam-ships.

23. When a foreign steam-ship requires to be furnished with a certificate of survey under this Act, and the Local Government is satisfied, by the production of a certificate of survey attested by a British Consular Officer at the port of survey, that the ship has been officially surveyed at a foreign port, and that the requirements of this Act are proved by that survey to have been substantially complied with, the Local Government may, if it thinks fit, dispense with any further survey of the ship in respect of the requirements so complied with, and give a certificate which shall have the same effect as a certificate given after survey under this Act :

Provided that this section shall not apply in the case of an official survey at any foreign port with respect to which Her Majesty has by Order in Council directed that section 19 of the Merchant Shipping Act, 1876, shall not apply.

89 & 4
cap. 8

Power for
Local Gov-
ernment to
make rules
as to surveys.

24. (1) The Local Government may make rules to regulate the making of surveys under this Act.

(2) Rules under this section may, among other matters,—

- (a) declare the times and places at which, and the manner in which, surveys are to be made;
- (b) regulate the duties of the surveyor making a survey and, where two surveyors are employed, assign the respective duties of each of the surveyors employed;
- (c) declare the form in which the declarations of surveyors and certificates of survey under this Act are to be framed, and the nature of the particulars which are to be stated therein, respectively; and
- (d) fix the rates according to which the fees payable for certificates of survey are to be calculated in the case of all or any of the ports of survey within the territories under its administration.

Power for
Local Gov-
ernment to
exempt cer-
tain steam-
ships.

25. The Local Government may, from time to time, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare that all or any of the provisions of this chapter shall not apply in the case of any specified class of steam-ships, or shall apply to them with such modifications as the Local Government prescribes.

(Chapter III.—*Examination and Certificates of Engineers and Engine-drivers.*
(Secs. 26-31.)

CHAPTER III.

EXAMINATION AND CERTIFICATES OF ENGINEERS AND ENGINE-DRIVERS.

26. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as engineers or engine-drivers. Appointment of examiners.

27. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class engineer, or as a second-class engineer, or as an engine-driver, as the case may be : Grant of engineers' and engine-drivers' certificates of competency.

Provided that the Local Government may, in any case in which it has reason to believe that the report has been unduly made, require, before granting a certificate, a re-examination of the applicant or a further inquiry into his testimonials and character.

(2) Every certificate granted under this section shall be in the prescribed form.

28. Notwithstanding anything contained in the Indian Merchant Shipping Act, 1883, or any other law for the time being in force, the Local Government may at any time, without any formal investigation, suspend or cancel any engine-driver's certificate granted by it under this Act, if in its opinion the holder is, or has become, unfit to act as an engine-driver. Power for Local Government to cancel engine-drivers' certificates.

29. Every certificate of competency granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner. Certificates to be made in duplicate.

30. Whenever an engineer or engine-driver proves to the satisfaction of the Local Government which granted his certificate that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled shall be granted to him, and shall have all the effect of the original. Copy of certificate to be granted in certain cases.

31. (1) A British steam-ship shall not proceed from any port in British India to any port or place not being either in British India, or on the Continent of India, or in the Island of Ceylon, unless she has,— Steam-ships required to carry first-class and second-class engineers.

(a) if the steam-ship has engines of 100 nominal horse-power or upwards, as her first and second engineers two certificated engineers, the first possessing a first-class engineer's certificate and the second a second-class engineer's certificate or a certificate of the higher grade granted under this Act or the Merchant Shipping Acts, 1854

(Chapter III.—*Examination and Certificates of Engineers and Engine-drivers.*
Secs. 32-34.)

to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869 ;

32 & 33 Vic.,
cap. 11.

- (b) if the steam-ship has engines of under 100 nominal horse-power, as her only or first engineer an engineer possessing a second-class engineer's certificate or a certificate of the higher grade of the nature referred to in clause (a).

(2) A foreign steam-ship having engines of 50 nominal horse-power or upwards shall not carry passengers from any port in British India to any other port in British India, and a British steam-ship having engines of a like horse-power shall not proceed from any port in British India to any other port in British India or to any port or place on the Continent of India or in the Island of Ceylon, unless she has as her only or first engineer an engineer possessing a second-class engineer's certificate or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1).

Power for
Local Gov-
ernment to
require cer-
tain steam-
ships to carry
engine-
drivers.

32. (1) On and from such day as the Local Government, by notification in the official Gazette, directs in this behalf, a foreign steam-ship having engines of under 50 nominal horse-power shall not carry passengers from any port within the territories administered by that Local Government to any other port in British India, and a British steam-ship having engines of a like horse-power shall not proceed from any port within those territories to any other port in British India or to any port or place on the Continent of India or in the Island of Ceylon, unless she has as her engineer a person possessing an engine-driver's certificate granted under this Act or an engineer's certificate of either of the grades referred to in the last foregoing section.

(2) The Local Government may at any time, by a like notification, cancel any notification issued by it under this section.

Exemption of
inland steam-
vessels.

Penalty for
serving, or
engaging a
person to
serve, as
engineer or
engine-driver
without a
certificate.

33. Nothing in section 31 or section 32 shall apply to any steam-ship to which the provisions of the Inland Steam-vessels Act, 1884, are applicable.

VI of 1884.

34. (a) If any person who has been engaged to serve in any of the capacities referred to in section 31 or section 32 in any steam-ship to which those sections apply, respectively, proceeds in the steam-ship in that capacity without being at the time entitled to, and possessed of, the certificate required by those sections, and

(b) if any person employs any person in any capacity referred to in section 31 or section 32 in any steam-ship to which those sections apply, respectively, without ascertaining that he is at the time entitled to, and possessed of, the certificate required by those sections,

(Chapter IV.—Investigations into Explosions. Secs. 35-37.)

he shall be punished with fine which may extend to five hundred rupees.

I of 1859.

35. The provisions of Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) with respect to the certificates of competency or service of the master and mate contained in section 31 and section 32 of that Act shall apply to certificates of competency granted under this Act in the same manner as if certificates of competency granted to engineers under this Act were specially mentioned and included in those sections.

Production
of certificates

36. The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

Power for
Local Gov-
ernment to
make rules
as to grant of
certificates of
competency.

- (a) provide for the conduct of the examinations of persons desirous of obtaining certificates of competency as engineers or engine-drivers under this Act;
- (b) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class engineers' certificates, second-class engineers' certificates and engine-drivers' certificates, respectively;
- (c) fix the fees to be paid by all applicants for examination; and
- (d) prescribe the form in which certificates are to be framed, and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

CHAPTER IV.

INVESTIGATIONS INTO EXPLOSIONS.

37. (1) Whenever any explosion occurs on board any steam-ship on or near the coasts of British India, the Local Government may, if it thinks fit, direct that an investigation into the cause of the explosion be made by such person or persons as it thinks fit.

Power to in-
vestigate
causes of
explosions on
board steam-
ships

(2) The person or persons so directed may enter into and on the steam-ship, with all necessary workmen and labourers, and remove any portion of the steam-ship, or of the machinery thereof, for the purpose of the investigation, and shall report to the Local Government what, in his or their opinion, was the cause of the explosion.

(3) Every person making an investigation under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code.

CHAPTER V.

SUPPLEMENTAL.

Jurisdiction
of Magis-
trates.

38. No Magistrate shall try any offence under this Act unless he is a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the first class.

Place of trial.

39. If any person commits an offence against this Act, he shall be triable for the offence in any place in which he may be found, or which the Local Government, from time to time, by notification in the official Gazette, directs in this behalf, or in any other place in which he might be tried under any other law for the time being in force.

Distress of
steam-ship.

40. Where the owner or master of a steam-ship is adjudged under this Act to pay a fine for an offence committed with, or in relation to, that steam-ship, the Court may, in addition to any other power it may have for the purpose of compelling payment of the fine, direct that it be levied by distress and sale of the steam-ship, and the tackle, apparel and furniture thereof, or so much thereof as is necessary.

Amendment
of section 13
of Act VIII of
1876.

41. In section 13, clause (b), of the Native Passenger Ships Act, 1876, VIII, for the words "six months" the words "one year" shall be substituted; and after the word "sailing" the words "in force and applicable to the voyage on which the ship is about to proceed or the service on which she is about to be employed" shall be added.

Procedure for
making, pub-
lication and
confirmation
of rules.

42. (1) A Local Government making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the *Gazette of India*, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect until it has been sanctioned by the Governor General in Council and published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under

*(The Schedule.—Rates of Fees.)**Legal Practitioners.**(Secs. 1-3.)*

this Act shall be conclusive evidence that it has been duly made and sanctioned.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE SCHEDULE.

(See section 14.)

RATES OF FEES.

| | Tons. | Rs. |
|------------------------------|-------|-----|
| For steam-ships of less than | 200 | 40 |
| „ „ 200 tons and up to | 350 | 50 |
| „ „ 350 „ „ „ | 700 | 60 |
| „ „ 700 „ „ „ | 1,000 | 80 |
| „ „ 1,000 „ „ „ | 1,500 | 100 |
| „ „ 1,500 „ and upwards | ... | 120 |

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ACT No. IX OF 1884.

Received the Governor General's assent on the 16th May, 1884.

An Act to amend the Legal Practitioners' Act, 1879, and the Indian Stamp Act, 1879.

XVIII of
1879.

WHEREAS it is expedient to amend the Legal Practitioners' Act, 1879, in manner in this Act appearing;

I of 1879.

and whereas it is also expedient to amend the Indian Stamp Act, 1879, in so far as it relates to the duty chargeable on the enrolment of legal practitioners;

It is hereby enacted as follows:—

1. (1) This Act may be called the Legal Practitioners' Act, 1884; and

(2) It shall come into force at once.

XVIII of
1879.

2. In section 4 of the Legal Practitioners' Act, 1879, for the words "as an advocate on the roll of the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted.

Short title
and com-
mencement.
Amendment
of section 4
of Act XVIII
of 1879.

3. To section 13 of the same Act the following proviso shall be added:—

"Provided that where the party is—

(a) a pardánashín woman, or

(b) unable for any sufficient cause to instruct the pleader in person,

Addition of a
proviso to
section 13 of
same Act.

nothing in this section shall make a pleader liable to suspension or dismissal merely by reason that he has taken instructions from a relative or friend authorized by the party to give such instructions and not receiving any remuneration in respect thereof."

Amendment of section 14 of same Act.

4. In section 14 of the same Act, before the words "any District Magistrate" the words "any Judge of a Court of Small Causes of a Presidency-town" shall be inserted. XVIII of 1879.

Amendment of section 25 of same Act.

5. In section 25 of the same Act, after the word "annexed" the words "and of such description as the Local Government may from time to time prescribe" shall be inserted.

Amendment of section 27 of same Act.

6. To the first clause of section 27 of the same Act the following shall be added, namely:—"and in respect of the fees of his adversary's revenue-agent appearing, pleading or acting under section 10".

Amendment of section 38 of same Act. New section substituted for section 41 of same Act.

7. In section 38 of the same Act, for the words "by the Chief Court of the Panjáb" the words "under section 41 of this Act" shall be substituted.

8. For section 41 of the same Act the following section shall be substituted, namely:—

Power for certain High Courts to enrol advocates.

"41. (1) A High Court not established by Royal Charter may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

"(2) Every advocate so enrolled shall be entitled to appear for the suitors of the Court, and to plead or to act, or to plead and act, for those suitors, according as the Court may by its rules determine, and subject to those rules.

"(3) The High Court may dismiss any advocate so enrolled or suspend him from practice:

"(4) Provided that an advocate shall not be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the High Court which enrolled him, and, except in the case of the Chief Court of the Panjáb, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government."

New section added to same Act.

9. To the same Act the following section shall be added, namely:—

Repeal of Acts I of

"42. Act I of 1846 (*for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company*) and Act I of 1846.

(Secs. 1-4.)

- XX of 1853. XX of 1853 (*to amend the law relating to pleaders in the Courts of the East India Company*) are repealed." 1846 and XX of 1853.
- I of 1879. 10. (1) In Article 27 of Schedule I of the Indian Stamp Act, 1879, after the words "in exercise of powers conferred on such Court by letters patent," Amendment of Schedules I & II of Act I of 1879.
- IX of 1884. the words "or by the Legal Practitioners' Act, 1884," shall be inserted; and (Duty on enrolment of advocates)
- I of 1879. (2) In clause (a) of Article 11 of Schedule II of the same Act, the words "established by Royal Charter" shall be repealed.

ACT No. XII OF 1884.

Received the Governor General's assent on the 24th July, 1884.

An Act to amend and provide for the extension of the Northern India Takṣávi Act, 1879.

X of 1879. WHEREAS it is expedient to amend the Northern India Takṣávi Act, 1879, and provide for its extension to any part of British India; It is hereby enacted as follows :—

1. (1) This Act may be called the Agriculturists' Loans Act, 1884; and (2) It shall come into force on the first day of August, 1884.

Short title,
Commence-
ment.
Local extent.

2. (1) This section and section 3 extend to the whole of British India.

(2) The rest of this Act extends in the first instance only to the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, Assam and Ajmer.

(3) But any other Local Government may, from time to time, by notification in the official Gazette, extend the rest of this Act to the whole or any part of the territories under its administration.^a

- X of 1879. 3. (1) On and from the day on which this Act comes into force, the Northern India Takṣávi Act, 1879, and sections 4 and 5 of the Bombay Revenue Jurisdiction Act, 1880, shall, except as regards the recovery of advances made before this Act comes into force and of the interest thereon, be repealed.

Repeal of Act X of 1879, and sections 4 and 5 of Act XV of 1880.

(2) All rules made under those Acts shall be deemed to be made under this Act.

4. (1) The Local Government may, from time to time, with the previous sanction of the Governor General in Council, make rules as to loans to be made to owners and occupiers of arable land, for the relief of distress, the pur-

Power for Local Government to make rules.

^a Extended to the Lower Provinces of Bengal with effect from the 7th June, 1885—see *Calcutta Gazette*, 10th June, 1885, Part I, page 555.

chase of seed or cattle, or any other purpose not specified in the Land Improvement Loans Act, 1883, but connected with agricultural objects.

XIX of 1883.

(2) All such rules shall be published in the local official Gazette.

Recovery of
loans.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety.

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Liability of
joint bor-
rowers as
among
themselves.

6. When a loan is made under this Act to the members of a village-community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

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ACT No. XV of 1884.

(Received the Governor General's assent on the 26th September, 1884.)

An Act for the validation of certain licenses to solemnize Marriages granted to Ministers of Religion under Act XXV of 1864.

WHEREAS by section 4 of Act XXV of 1864 (*to provide further for the solemnization of Marriages in India of persons professing the Christian Religion*) it was enacted that, from and after the first day of July, 1864, certain Governments therein named should have authority to grant licenses to ministers of religion to solemnize marriages within the territories subject to such Governments respectively;

XXV of 1864.

And whereas, in exercise of the authority so conferred, the Governments therein named granted licenses to certain ministers of religion to solemnize marriages;

New
added
same

Repe
Actis

And whereas Act XXV of 1864 was repealed by Act V of 1865 (*to provide for the solemnization of Marriages in India of persons professing the Christian Religion*);

V of 1865.

And whereas by section 9 of the latter Act it was enacted that, from and after the commencement of that Act, all marriages which should be solemnized in India otherwise than in accordance with the provisions of the fifth and sixth sections of that Act should be null and void ;

And whereas by section 6 of the same Act it was enacted that marriages might be solemnized in India by (among other persons) any minister of religion who, under the provisions of that Act, had obtained a license to solemnize marriages ;

And whereas Act V of 1865 was repealed by the Indian Christian Marriage Act, 1872 ;

And whereas by section 4 of the latter Act it is enacted that every marriage between persons, one or both of whom is a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section ; and that any such marriage solemnized otherwise than in accordance with such provisions shall be null and void ;

And whereas by the next following section of the same Act it is enacted that marriages may be solemnized in India by (among other persons) any minister of religion licensed under the same Act to solemnize marriages ;

And whereas neither in Act V of 1865 nor in the Indian Christian Marriage Act, 1872, was there or is there any provision either saving licenses granted under Act XXV of 1864 or permitting a marriage to be solemnized by a minister of religion who had obtained a license to solemnize marriages under Act XXV of 1864 only ;

And whereas certain marriages have been solemnized both while Act V of 1865 was in force and since the passing of the Indian Christian Marriage Act, 1872, by ministers of religion who had obtained licenses to solemnize marriages under Act XXV of 1864, but had never obtained licenses to solemnize marriages under Act V of 1865 or the Indian Christian Marriage Act, 1872, as the case may be, and doubts have therefore arisen as to the validity of such marriages ;

And whereas it is expedient to remove such doubts and to declare the continued validity of licenses to solemnize marriages granted to ministers of religion under Act XXV of 1864 ;

It is hereby enacted as follows :—

1. A license to solemnize marriages granted to a minister of religion under Act XXV of 1864 shall be deemed, if in force on the date on which Act V of 1865 came into force, to have been, while that Act was in force, a license granted under that Act, and, if in force on the date on which the Indian Christian Marriage Act, 1872, came into force, to have been since that Act came into force, and to be, a license granted under that Act.

Validation of licenses to solemnize marriages granted to ministers of religion under Act XXV of 1864.

ACT No. XX OF 1884.

(*Received the Governor General's assent on the 10th October, 1884.*)

An Act to amend the Indian Salt Act, 1882.

WHEREAS it is expedient to exclude the Province of Sindh from the operation of those portions of the Indian Salt Act, 1882, which do not extend XII of 1882. by their own operation to the whole of British India; It is hereby enacted as follows:—

Repeal of words "to the province of Sindh" and "Province" in section 1 of Act XII of 1882.

1. From such day as the Governor of Bombay in Council, by notification in the official Gazette, fixes in this behalf, the words "to the Province of Sindh" and the word "Province," in paragraphs three and four respectively of section 1 of the Indian Salt Act, 1882, shall be repealed.

ACT No. XXI OF 1884.

(*Received the Governor General's assent on the 19th December, 1884.*)

An Act to repeal the Straits Settlements Emigration Act, 1877,
and to amend the Indian Emigration Act, 1883.

WHEREAS it is expedient to repeal the Straits Settlements Emigration Act, 1877, and to amend the Indian Emigration Act, 1883, in manner herein-after appearing; It is hereby enacted as follows:—

New section substituted for section 102 of Act XXI of 1883.
Power for Governor General in Council to exempt from Act emigration to Native States adjoining the Straits Settlements.

1. The Straits Settlements Emigration Act, 1877, is repealed. V of 1877.
2. For section 102 of the Indian Emigration Act, 1883, the following section shall be substituted:— XXI of 1883.

"102. On and from such a date as the Governor General in Council may, by notification in the *Gazette of India*, fix in this behalf, a Native of India who departs by sea out of British India under an agreement to labour for hire in any protected Native State adjoining the Straits Settlements to which the notification refers shall not be deemed to emigrate within the meaning of this Act."

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT,

THE
UNREPEALED GENERAL ACTS
OF
THE GOVERNOR GENERAL IN COUNCIL
FOR THE YEARS
1885 to 1888
WITH
FULL CHRONOLOGICAL TABLES
SHOWING
ALL THE ACTS OF THE GOVERNOR GENERAL IN COUNCIL
FROM
1834 to 1884.

CALCUTTA :
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1889.

Price Eight Rupees.

PREFACE.

THIS volume contains such of the unrepealed Acts of the Governor General in Council passed during the years 1885, 1886, 1887 and 1888 as extend (wholly or in part), or are extendible, to the whole of British India or to the three Presidency-towns.

2. The volume is founded on the official copies of the Acts preserved in the Legislative Department. It does not, however, purport to be an authoritative reprint of the Acts.

3. The following changes have been made in reprinting the Acts :—

- (a) Sections and chapters which have been entirely repealed have been omitted, but their marginal notes or headings have been reprinted in italics for convenience of reference, with a note citing the repealing enactment. Acts, sections, clauses or words which have been repealed in particular localities only are retained, but references to the repeal have been given in foot-notes. Where only part of a section has been repealed, the repealed matter has been omitted and a foot-note has been inserted explaining the omission.
- (b) Where an Act directs that a section, a clause or words shall be inserted in a former Act, such insertion has been made, and a reference to the amending Act has been given.
- (c) Where one Act refers to another, and such reference is

directed by a subsequent Act to be read as if made to the latter Act, the reference has, as a rule, been altered accordingly in the text.

- (*d*) Section-numbers occurring in the text have been uniformly printed in figures, instead of in words.
- (*e*) In addition to the subject or short title of the Act, the number and title of the chapter, and the sections comprised in the page, have been noted as a heading to each page.

4. The foot-notes in this volume consist chiefly of the references mentioned in clauses (*a*) and (*b*) of the foregoing paragraph, cross-references to other Acts, and references to Gazette notifications bringing Acts into force or extending the same.

5. The chronological table prefixed to this volume enumerates all Acts of the Governor General in Council passed during the years 1885 to 1888, and shews the pages at which Acts contained herein may be found.

Another chronological table of all Acts of the Governor General in Council from 1834 to 1884 has, for convenience of reference, been appended to this volume.

The fourth column of these tables shews all repeals and amendments up to date, and gives a reference to the publications of this Department in which the Acts have been or will hereafter be reprinted.

Certain Acts which are of a purely private character, or are now only in force in so limited an area that their re-publication is considered unnecessary, are noted as "not reprinted."

6. In passing this volume through the Press I have had the zealous assistance of Mr. J. S. W. Young-Craig of this Department.

7. This volume has been corrected up to the 1st March, 1889.

C. H. OERTEL,

*Offg. Dpy. Secy. to the Govt. of India,
Legislative Department.*

CALCUTTA ;
The 2nd March, 1889.

CHRONOLOGICAL TABLE OF ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

1885—1888.

[NOTE—In the case of Acts which have been wholly repealed or spent, or which have expired, the entries in the third and fourth columns are printed in italics.]

| Year. | Number. | Subject or short title. | Repeals, amendments and references. | Page. |
|-------|---------|---|--|-------|
| 1885 | I | Steam-boilers and Prime-movers (Burma) . . . | Printed, Burma Code. | |
| " | II | Negotiable Instruments . . . | Printed, General Acts . . . | 1 |
| " | III | Transfer of Property . . . | Printed, General Acts . . . | 3 |
| " | IV | Additional Judicial Commissioner (Oudh) . . . | Printed, Oudh Code. | |
| " | V | Amending Indian Ports Act (XII of 1875) . . . | Printed, General Acts . . . | 4 |
| " | VI | Amending Excise Act (XXII of 1881). . . | Printed, N.-W. Provinces Code. Punjab Code. Oudh Code. C. Provinces Code. Burma Code. Coorg Code. Ajmere Code. | |
| " | VII | Pānch Mahāls Laws . . . | Printed, Bombay Code. | |
| " | VIII | Tenancy (Bengal) . . . | Amended, VIII of 1886. Printed, Bengal Code. | |
| " | IX | Amending Tariff Act (XI of 1882), Excise Act (XXII of 1881), Bengal Excise Act (Ben. Act VII of 1878), and Sea Customs Act (VIII of 1878) . . . | Printed, General Acts . . . | 5 |
| " | X | Amending Oudh Estates Act (I of 1869) . . . | Printed, Oudh Code. | |
| " | XI | <i>Amending Burma Municipal Act (XVII of 1884) . . .</i> | <i>Rep., XIX of 1888.</i> | |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. | Page. |
|-------|---------|--|--|-------|
| 1885 | XII | Sea passengers . . . | Printed, General Acts . . . | 6 |
| " | XIII | Telegraphs . . . { | Amended, XI of 1888. Printed, General Acts . . . | 10 |
| " | XIV | ^a Amending Burma Courts Act (XVII of 1875), and Code of Civil Procedure (XIV of 1882) . . . | Printed, Burma Code. | |
| " | XV | Amending Local Authorities Loan Act (XI of 1879) . . . | Printed, General Acts . . . | 21 |
| " | XVI | Civil Courts, Central Provinces . . . | Printed, C. Provinces Code. | |
| " | XVII | Government Wards, Central Provinces . . . | Printed, C. Provinces Code. | |
| " | XVIII | Land Acquisition (Mines) . | Printed, General Acts . . . | 22 |
| " | XIX | <i>Indian Securities</i> . . . | <i>Rep., XIII of 1886.</i> | |
| " | XX | <i>Postponing temporarily the operation of certain provisions of the Bengal Tenancy Act (VIII of 1885) . . .</i> | <i>Spent.</i> | |
| " | XXI | Civil Courts, Madras . | Printed, Madras Code. | |
| 1886 | I | Lahore Tramways . . . | Printed, Punjab Code. | |
| " | II | Income-tax . . . | Printed, General Acts . . . | 27 |
| " | III | Amending Ferries Act (XVII of 1878). { | Printed, N.-W. Provinces Code. Punjab Code. Oudh Code. C. Provinces Code. Ajmere Code. Assam Supplement to Bengal Code. | |
| " | IV | Amending Contract Act (IX of 1872), section 265 . . . | Printed, General Acts . . . | 49 |
| " | V | Mirzapur Stone Mahal . | Printed, N.-W. Provinces Code. | |
| " | VI | Births, Deaths and Marriages Registration . | Printed, General Acts . . . | 49 |
| " | VII | Registration . . . | Printed, General Acts . . . | 62 |

^a This Act will be repealed by the new Lower Burma Courts Bill now before the Council of the Governor General.

| Year. | Number. | Subject or short title. | Repeals, amendments and references. | Page. |
|-------|---------|--|--|-------|
| 1886 | VIII | Amending Bengal Tenancy Act (VIII of 1885) . | Printed, Bengal Code. | |
| " | IX | Deo Estate (Bengal) . | Not reprinted. | |
| " | X | Amending Code of Criminal Procedure (Act X of 1882), Penal Code (Act XLV of 1860), Prisoners Act (V of 1871), and other Acts . . . | Printed, General Acts . . . | 63 |
| " | XI | Tramways . . . | Printed, General Acts . . . | 70 |
| " | XII | Petroleum . . . | Printed, General Acts . . . | 94 |
| " | XIII | Securities . . . | Printed, General Acts . . . | 110 |
| " | XIV | Rent, North-Western Provinces . . . | Printed, N.-W. Provinces Code. | |
| " | XV | Land-revenue, North-Western Provinces . . . | Printed, N.-W. Provinces Code. | |
| " | XVI | <i>Lower Burma Gaols Delivery</i> . . . | <i>Expired on 30th June, 1887.</i> | |
| " | XVII | Jhansi and Morar . . . | Printed, N.-W. Provinces Code. | |
| " | XVIII | Amending Lunatic Asylums Act (XXXVI of 1858) . . . | Printed, General Acts . . . | 114 |
| " | XIX | Discharge by Lieutenant-Governor, North-Western Provinces, of certain functions of Governor General in Council . | Printed, N.-W. Provinces Code. | |
| " | XX | Upper Burma Laws | { Amended, Reg. X of 1887, ss. 2 and 5. Supplemented, XV of 1888. Printed, Burma Code. | |
| " | XXI | Oudh Wasikas . . . | Printed, Oudh Code. | |
| " | XXII | Oudh Rent . . . | Printed, Oudh Code. | |
| " | XXIII | Amending Dekkhan Agriculturists' Relief Acts, 1879 to 1882 . . . | Printed, Bombay Code. | |
| " | XXIV | Glanders and Farcy (extending Act XX of 1879 to Bombay Presidency). | Printed, Bombay Code. | |
| 1887 | I | General Clauses . . . | Printed, General Acts . . . | 116 |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. | Page. |
|-------|---------|---|---|-------|
| 1887 | II | Amending Sea Customs Act (VIII of 1878), Excise Act (XXII of 1881) and Indian Tariff Act (XI of 1882) . . . | Printed, General Acts . . . | 119 |
| " | III | Amending Indian Evidence Act (I of 1872) . . . | Printed, General Acts . . . | 122 |
| " | IV | Indian Museum (Calcutta) | Printed, Bengal Code. | |
| " | V | Amending Code of Criminal Procedure (X of 1882) . . . | Printed, General Acts . . . | 122 |
| " | VI | Amending Indian Companies Act (VI of 1882). | Printed, General Acts . . . | 123 |
| " | VII | Suits Valuation . . . | Printed, General Acts . . . | 124 |
| " | VIII | <i>Abolishing Military Courts of Requests</i> . . . | <i>Spent.</i> | |
| " | IX | Provincial Small Cause Courts. { | Rep., in part, X of 1888. Printed, General Acts . . . | 126 |
| " | X | Native Passenger Ships . . . | Printed, General Acts . . . | 141 |
| " | XI | Sind-Pishin Railway . . . | Not reprinted. | |
| " | XII | Civil Courts in Bengal, North-Western Provinces and Assam. } | Printed, Bengal Code. N.-W. Provinces Code. | |
| " | XIII | Electricity . . . | Printed, General Acts . . . | 157 |
| " | XIV | Indian Marine . . . { | Amended, XVII of 1888. Printed, General Acts . . . | 159 |
| " | XV | Burma Military Police . . . | Printed, Burma Code. | |
| " | XVI | Punjab Tenancy . . . { | Extended to Hazára with modifications, Reg. XIII of 1887. Printed, Punjab Code. | |
| " | XVII | Punjab Land-revenue . . . | Printed, Punjab Code. | |
| " | XVIII | Allahabad University . . . | Printed, N.-W. Provinces Code. | |
| " | XIX | Administration of Estate of late King of Oudh. { | Supplemented, XIV of 1888. Not reprinted. | |
| " | XX | Protection of wild birds and other game . . . | Printed, General Acts . . . | 185 |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. | Page. |
|-------|---------|--|---|-------|
| 1887 | XXI | Inland Bonded Warehouses | Printed, General Acts . . | 186 |
| 1888 | I | Stamps (amending Act I of 1879) | Printed, General Acts . . | 187 |
| " | II | Customs-duty on Petroleum (amending Act XI of 1882) | Printed, General Acts . . | 190 |
| " | III | Police (amending Acts XXIV of 1859 and V of 1861 and Bombay Act VII of 1867) | Printed, General Acts . . | 191 |
| " | IV | Indian Reserve Forces . . | Printed, General Acts . . | 193 |
| " | V | Inventions and Designs . . | Printed, General Acts . . | 194 |
| " | VI | Imprisonment for Debt . . | Printed, General Acts . . | 220 |
| " | VII | Amending Code of Civil Procedure, Registration and Limitation Acts . . | Printed, General Acts . . | 223 |
| " | VIII | Tolls | Printed, General Acts . . | 240 |
| " | IX | <i>Repealing Contagious Diseases Acts</i> | <i>Spent.</i> | |
| " | X | Amending Code of Civil Procedure and Presidency Small Cause Courts Act, 1882 | Printed, General Acts . . | 241 |
| " | XI | Telegraphs (amending Act XIII of 1885) | Printed, General Acts . . | 247 |
| " | XII | Supplementing the Bombay and Calcutta Municipal Acts. | } Printed, Bombay Code. Pengal Code. | |
| " | XIII | Punjab Courts (amending Act XIII of 1884) . . | | |
| " | XIV | Administration of Estate of late King of Oudh . . | Not reprinted. | |
| " | XV | Shan States (supplementing Act XX of 1886) . . | Printed, Burma Code. | |
| " | XVI | <i>Repealing Act VII of 1867, and Madras Regulation XIV of 1832.</i> | <i>Spent.</i> | |
| " | XVII | Indian Marine (amending Act XIV of 1887) . . | Printed, General Acts . . | 247 |

x *Chronological Table of Acts of the Governor General in Council.*

| Year. | Number. | Subject or short title. | Repeals, amendments and references. | Page. |
|-------|---------|--|-------------------------------------|-------|
| 1888 | XVIII | Financial Commissioner, Burma | Printed, Burma Code. | |
| „ | XIX | Burma Municipalities (amending Act XVII of 1884) | Printed, Burma Code. | |

THE
UNREPEALED GENERAL ACTS
OF
THE GOVERNOR GENERAL IN COUNCIL.

ACT No. II OF 1885.^a

Received the Governor General's assent on the 30th January, 1885.

An Act to amend the Negotiable Instruments Act, 1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881, in manner hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Negotiable Instruments Act, 1885.

Short title.

2. In the fourth paragraph of section 7 of the Negotiable Instruments Act, 1881, for the words “ When acceptance is refused and the bill is protested for non-acceptance ” the following shall be substituted, namely :—“ When a bill of exchange has been noted or protested for non-acceptance or for better security ”.

Amendment of section 7, Act XXVI of 1881.

3. After section 45 of the same Act the following shall be inserted :—

New section inserted after section 45 of the same Act.

“ 45A. Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again.

Holder's right to duplicate of lost bill.

“ If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.”

4. To section 61, and the first paragraph of section 64, of the same Act, the following shall be added :—

Addition to sections 61 and 64 of the same Act.

“ Where authorised by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.”

^a This Act has been declared in force in the town of Mandalay by Act XX of 1886, s. 6 (1).

(Secs. 5-10.)

Addition to
section 101
of the same
Act.

5. To section 101 of the same Act the following shall be added :—

“A notary public may make the demand mentioned in clause (c) of this section either in person or by his clerk or, where authorised by agreement or usage, by registered letter.”

Section insert-
ed after sec-
tion 104 of
the same Act.

6. After section 104 of the same Act the following shall be inserted :—

When noting
equivalent to
protest.

“104A. For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting.”

Section 108
of the same
Act, in part,
repealed.

7. In the same Act, section 108, the second sentence is repealed.

Amendment
of section 109
of same Act.

8. In the same Act, section 109,

- (a) for the words “in the presence of a notary public subscribe the bill with his own hand and” the following shall be substituted, namely :—“by writing on the bill under his hand”; and
- (b) the last twelve words are repealed.

Amendment
of section 113
of same Act.

9. In the same Act, section 113, after the words “the person so paying” the words “or his agent in that behalf” shall be inserted.

New chapter
added to same
Act.

10. After Chapter XVI of the same Act, the following shall be inserted :—

“CHAPTER XVII.

“NOTARIES PUBLIC.

Power to
to appoint
notaries
public.

“138. The Governor General in Council may, from time to time, by notification in the official Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Act and to exercise his functions as such within any local area, and may, by like notification, remove from office any notary public appointed under this Act.

Power to
make rules
for notaries
public.

“139. The Governor General in Council may, from time to time, by notification in the official Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may, by such rules (among other matters), fix the fees payable to such notaries.”

ACT No. III OF 1885.

Received the Governor General's assent on the 30th January, 1885.

An Act to amend the Transfer of Property Act, 1882.

IV of 1882.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882; It is hereby enacted as follows:—

1. For the fifth clause of section 1 of the said Act the following shall be substituted, namely:—

Amendment of section 1 of Act IV of 1882.

“And any Local Government may, with the previous sanction of the Governor General in Council, from time to time, by notification in the local official Gazette, exempt, either retrospectively or prospectively, any part of the territories administered by such Local Government from all or any of the following provisions, namely:—

“Sections 54, paragraphs 2 and 3, 59, 107 and 123.”

2. The following clause shall be deemed to have been added to the first section of the said Act from the date on which it came into force, namely:—

Addition to same section.

“Notwithstanding anything in the foregoing part of this section, sections 54, paragraphs 2 and 3, 59, 107 and 123 shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the Indian Registration Act, 1877, under the power conferred by the first section of that Act or otherwise.”

III of 1877.

3. To section 4 of the said Act the following shall be added, namely:—

Addition to section 4 of same Act.

“And sections 54, paragraphs 2 and 3, 59, 107 and 123 shall be read as supplemental to the Indian Registration Act, 1877.”

4. To section 6 of the said Act the following clause shall be added:—

Addition to section 6 of same Act.

“(2) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue or the lessee of an estate under the management of a Court of Wards to assign his interest as such tenant, farmer or lessee.”

5. In section 69 of the said Act—

Amendment of section 69 of same Act.

(a) after the words “is valid in the following cases” the words “and in no others” shall be inserted; and

(b) after the words “Hindu, Muhammadan or Buddhist”, in both places where they occur, there shall be inserted the words “or a member

(Secs. 1-5.)

of any other race, sect, tribe or class from time to time specified in this behalf by the Local Government, with the previous sanction of the Governor General in Council, in the local official Gazette."

ACT No. V OF 1885.

Received the Governor General's assent on the 6th February, 1885.

An Act to amend the Indian Ports Act, 1875.

WHEREAS it is expedient to amend the Indian Ports Act, 1875, in manner XII of 1875. hereinafter appearing ; It is hereby enacted as follows :—

Amendment
of section 42
of the Indian
Ports Act,
1875.

1. In section 42 of the said Act, for the words "Conservator of every port to which such order relates, and in the custom-house, if any, of every port subject to this Act" the following shall be substituted, namely :—"Conservator, and at the custom-house, if any, of every port to which such order relates."

Addition to
section 47 of
the same
Act.

2. To the fourth paragraph of section 47 of the said Act the following shall be added, namely :—"The expenses aforesaid shall also include the pensions, allowances and gratuities of persons who have been employed under this Act in the port, or such portion of those pensions, allowances and gratuities as the Local Government may by rule determine."

Further addi-
tion to the
same section.

3. After the fifth paragraph of the same section the following shall be inserted and shall be deemed to have been inserted from the date on which the said Act came into force, namely :—"With the previous sanction of the Local Government the authorities of any port may, from time to time, contribute a sum from the Port Fund Account of that port for all or any of the purposes mentioned in section 60.

"The sum so contributed shall, if, and so long as, the Local Government so directs, be in substitution of any hospital port-dues imposed under section fifty-nine at that port."

Addition to
paragraph 3,
section 59, of
the same
Act.

4. To the third paragraph of section 59 of the same Act the following shall be added, namely :—"The Local Government may, from time to time, by notification in the official Gazette, cancel any such order."

Amendment
of Schedule I,
Part II, of
the same Act.

5. In the entry relating to the Cuttack ports in Part II of the First Schedule of the same Act, for the words "not exceeding six aunas per hundred maunds" the following shall be substituted, namely :—"Not exceeding four annas per ton".

ACT No. IX of 1885.^a*Received the Governor General's assent on the 29th May, 1885.*

AN Act to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend the Excise Act, 1881, the Bengal Excise Act, 1878, and the Sea Customs Act, 1878.

XI of 1882.
XXII of
1881.
Ben. Act
VII of 1878.
VIII of 1878.

WHEREAS it is expedient to repeal part of section 6 of the Indian Tariff Act, 1882, and to amend section 7 of the Excise Act, 1881, section 18 of the Bengal Excise Act, 1878, and sections 145, 149 and 207 of the Sea Customs Act, 1878, in manner hereinafter appearing; It is hereby enacted as follows:—

XI of 1882.

1. The part of section 6 of the Indian Tariff Act, 1882, beginning with the words "And whereas" down to and including the words "been paid" is repealed.

Repeal of
part of sec-
tion 6 of Act
XI of 1882.

XXII of
1881.

2. For clause (a) of section 7 of the Excise Act, 1881, the following clause shall be substituted:—

Amendment
of section 7 of
Act XXII of
1881.

"(a) such duty as the Local Government may from time to time fix in respect of such spirit has been paid, or".

Ben. Act
VII of 1878.

3. In section 18 of the Bengal Excise Act, 1878, for the words "at the rate leviable under any Tariff Act for the time being in force" the words "at such rate as the Local Government may from time to time fix in respect of such spirituous liquor" shall be substituted; but nothing in this section shall affect any Act passed after this Act comes into force by the Lieutenant-Governor of Bengal in Council.

Amendment
of section 18
of Ben. Act
VII of 1878.

XI of 1882.

4. The duty now fixed by the Local Government under section 6 of the Indian Tariff Act, 1882, as leviable on spirit manufactured in all or any of the distilleries situate in the territories under its administration, or in any part of such territories, shall, in places in which the Excise Act, 1881, or the Bengal Excise Act, 1878, is in force, be deemed to be the duty fixed by the Local Government under sections 7 and 18 of those Acts, as amended by this Act, respectively.

Saving of
duties already
fixed
under section
6 of Act XI
of 1882.

XXII of
1881.

Ben. Act
VII of 1878.

VIII of 1878.

5. (1) In section 145 of the Sea Customs Act, 1878, after the word "shall" the words "except when provision is made by any enactment for the time being in force for its being intermediately deposited in a licensed warehouse" shall be inserted.

Amendment
of sections
145 and 149
of Act VIII
of 1878.

(2) In section 149 of the same Act, after the words "custom-house" the

^a Ss 1, 3 and 4 of this Act have been declared in force in the Sonthal Pergunahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

words "or to a warehouse licensed under any enactment for the time being in force" shall be inserted.

Amendment
of section 207
of the same
Act.

6. In section 207 of the same Act, for the word "respectively" the words "or any like body hereafter created for any other port" shall be substituted.

ACT No. XII OF 1885.

Received the Governor General's assent on the 22nd July, 1885.

An Act to amend the law relating to the carriage of passengers by sea.

WHEREAS by section 99 of an Act of the Imperial Parliament called "The Passengers Act, 1855," it is enacted that "it shall be lawful for the Governor General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts;" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced;"

18 & 19 Vict.,
c. 119.

And whereas certain parts of the said Act of Parliament were by Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) made applicable to the carriage of passengers upon certain specified voyages;

And whereas by an Act of the Imperial Parliament called "The Passengers Act Amendment Act, 1863," certain parts of the Passengers Act, 1855, which were so made applicable, have been amended, and it is provided that the said Acts of the Imperial Parliament shall be construed together as one Act;

26 & 27 Vict.,
c. 51.
18 & 19 Vict.,
c. 119.

And whereas it is expedient that the amendments so made in the Passengers Act, 1855, should also be made in the parts of that Act so made applicable, and it is also expedient to apply those parts so amended to the carriage of passengers upon certain voyages not specified in Act II of 1860;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Sea Passengers Act, 1885; and
- (2) It shall come into force on the first day of October, 1885.

Short title
and com-
mencement.

(Secs. 2-5.)

2. On and from the day on which this Act comes into force, Act II of 1860 (*to amend the law relating to the carriage of passengers by sea*) shall be repealed. Repeal of Act II of 1860.

3. The provisions contained in sections 4, 5 and 6 of this Act, and the schedule hereto annexed (being parts of the Passengers Act, 1855, as amended by the Passengers Act Amendment Act, 1863), are declared applicable to the carriage of passengers upon the following voyages, namely :— Certain provisions of the Statutes made applicable to specified voyages from India.

(a) voyages from the ports of Calcutta, Madras and Bombay to the British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji;

(b) voyages from the ports of Calcutta, Madras and Bombay to the French Colonies of Réunion, Martinique, Guadeloupe and its dependencies, and Guiana;

(c) voyages from the ports of Calcutta, Madras and Bombay to the Netherlands colony of Dutch Guiana;

(d) voyages from the ports of Calcutta, Madras and Bombay to the Danish colony of St. Croix;

VIII of 1876.

(e) voyages under the Native Passenger Ships Act, 1876, from Calcutta, Madras, Bombay, Karáchi, Rangoon and other ports in British India to the Straits Settlements, to the protected Native States adjoining the Straits Settlements, to Australia, and to ports in the Red Sea, Gulf of Aden or Persian Gulf and on the East Coast of Africa.

4. If the passengers or cabin-passengers upon any such voyage as is specified in the last preceding section are taken off from the ship carrying them or are picked up at sea from any boat, raft or otherwise, it shall be lawful, if the port or place to which they are conveyed is in any of Her Majesty's colonial possessions, for the Governor of such colony, or for any person authorized by him for the purpose, or, if in any foreign country, for Her Majesty's Consular Officer at such port or place therein, to defray all or any part of the expenses thereby incurred. Governors or Consuls may pay expenses of passengers taken off passenger-ship.

5. If any passenger or cabin-passenger of any such passenger-ship as aforesaid, without any neglect or default of his own, finds himself within any colonial or foreign port or place other than that for which the ship was originally bound, or at which he, or the Emigration Agent, or any public officer or other person on his behalf, has contracted that he should land, it shall be lawful for the Governor of the colony, or for any person authorized by him for the pur- Governors or Consuls may send on passengers, if the master of the ship fail to do so.

(Sec. 6.)

pose, or for Her Majesty's Consular Officer at the foreign port or place, as the case may be, to forward the passenger or cabin-passenger to his intended destination, unless the master of the ship, within forty-eight hours of the arrival of such passenger or cabin-passenger, gives to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter the passenger or cabin-passenger to his original destination, and unless the master accordingly forwards or carries him on within that period.

Expenses incurred under sections 4 and 5 to be a Crown debt.

6. (1) All expenses incurred under the last two preceding sections, or either of them, by or by the authority of a Governor or Consular Officer, or other person as therein respectively mentioned, including the cost of maintaining the passengers and cabin-passengers until forwarded to their destination, and of all necessary bedding, provisions and stores, shall become a debt to Her Majesty and Her successors from the owner, charterer and master of the ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts.

(2) A certificate in the form given in the schedule hereto annexed, or as near thereto as the circumstances of the case will admit, purporting to be under the hand of any such Governor or Consular Officer (as the case may be), stating the total amount of the expenses, shall, in any suit or other proceeding for the recovery of the debt, be received in evidence without proof of the handwriting or of the official character of the Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of the expenses, and that the same were duly incurred ;

nor shall it be necessary to adduce on behalf of Her Majesty any other evidence in support of the claim, but judgment shall pass for the Crown, with costs of suit, unless the defendant specially pleads and duly proves that the certificate is false or fraudulent, or specially pleads and duly proves any facts showing that the expenses were not duly incurred :

Provided, nevertheless, that in no case shall any larger sum be recovered on account of the expenses than a sum equal to twice the total amount of passage-money received or due to and recoverable by or on account of the owner, charterer or master of the passenger-ship or any of them from or on account of the whole number of passengers and cabin-passengers who may have embarked in the ship ; which total amount of passage-money shall be proved by the defendant if he will have the advantage of this limitation of the debt ; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be en-

(Sec. 7. *The Schedule.*)

titled to the return of their passage-money, or to any compensation for loss of passage.

7. No policy of assurance effected in respect of any passages or of any Insurance. passage or compensation money by any person by this Act made liable in the events aforesaid to provide those passages or to pay that money, or in respect of any other risk under this Act, shall be deemed invalid by reason of the nature of the risk or interest sought to be covered by the policy of assurance.

THE SCHEDULE.

Form of Governor's or Consul's Certificate of Expenditure in the case of Passengers shipwrecked, &c.

(See section 6.)

(a) *N.B.*—1. If more passengers were rescued than forwarded, or if bedding, &c., was not supplied, alter the certificate to suit the facts of the case.

(b) *N.B.*—2. Omit words in brackets when necessary.

(c) *N.B.*—3. State generally the nature of the disaster and where it occurred. But if the passengers were only left behind without any default of their own, state the fact accordingly.

I hereby certify that acting under, and in conformity with, the provisions of the Indian Sea Passengers Act, 1885, I have defrayed the expenses incurred in rescuing, maintaining, supplying with necessary bedding, provisions and stores (a), and in forwarding to their destination

passengers [including cabin-passengers (b),] who were proceeding from to in the passenger-ship which was wrecked at sea, &c (c)

And I further certify, for the purposes of the sixth section of the said Indian Sea Passengers Act, 1885, that the total amount of such expenses is , and that such expenses were duly incurred by me under the said Act.

Given under my hand this

day of , 18 .

Governor of, &c. (or, as the case may be)
Her Britannic Majesty's Consul at .

THE INDIAN TELEGRAPH ACT, 1885.

CONTENTS.

PART I.

PRELIMINARY.

SECTIONS.

1. Short title, local extent and commencement.
2. Repeal and savings.
3. Definitions.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

4. Exclusive privilege in respect of telegraphs, and power to grant licenses.
5. Power for Government to take possession of licensed telegraphs and to order interception of messages.
6. Power to establish telegraph on land of Railway Company.
7. Power to make rules for the conduct of telegraphs.
8. Revocation of licenses.
9. Government not responsible for loss or damage.

PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

10. Power for telegraph authority to place and maintain telegraph lines and posts.
11. Power to enter on property in order to repair or remove telegraph lines or posts.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

12. Power for local authority to give permission under section 10, clause (c), subject to conditions.
13. Power for local authority to require removal or alteration of telegraph line or post.
14. Power to alter position of gas or water pipes or drains.
15. Disputes between telegraph authority and local authority.

Provisions applicable to other Property.

16. Exercise of powers conferred by section 10, and disputes as to compensation, in case of property other than that of a local authority.
17. Removal or alteration of telegraph line or post on property other than that of a local authority.

*(Part I.—Preliminary. Sec. 1.)**Provisions applicable to all Property.*

18. Removal of trees interrupting telegraphic communication.
19. Telegraph lines and posts placed before the passing of this Act.

PART IV.

PENALTIES.

20. Establishing, maintaining or working unlicensed telegraph or breaking condition of license.
21. Using such telegraphs.
22. Opposing establishment of telegraphs on railway land.
23. Intrusion into signal-room, trespass in telegraph office or obstruction.
24. Unlawfully attempting to learn contents of messages.
25. Intentionally damaging or tampering with telegraphs.
26. Telegraph officer or other official making away with or altering, or unlawfully intercepting or disclosing, messages, or divulging purport of signals.
27. Telegraph officer fraudulently sending messages without payment.
28. Misconduct.
29. Sending fabricated message.
30. Retaining a message delivered by mistake.
31. Bribery.
32. Attempts to commit offences.

PART V.

SUPPLEMENTAL PROVISION.

33. Power to employ additional police in places where mischief to telegraphs is repeatedly committed.

ACT No. XIII OF 1885.^a

Received the Governor General's assent on the 22nd July, 1885.

An Act to amend the law relating to Telegraphs in India.

WHEREAS it is expedient to amend the law relating to telegraphs in India; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Indian Telegraph Act, 1885.

Short title,
local extent

^a This Act has been declared in force in Upper Burma (except the Shan States) by Act XX of 1886, s. 6 (1), and in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

(Part I.—Preliminary. Secs. 2-3. Part II.—Privileges and Powers of the Government. Sec. 4.)

and com-
mencement.

(2) It extends to the whole of British India, and, so far as regards subjects of Her Majesty, to the dominions of Princes and States in India in alliance with Her Majesty; and

(3) It shall come into force on the first day of October, 1885.

Repeal and
savings.

2. The Indian Telegraph Act, 1876, is hereby repealed.

I of 1876.

But all licenses granted and rules made under that Act or any Act thereby repealed, and now in force, shall, so far as they could be granted or made under this Act, be deemed to have been respectively granted and made hereunder.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “telegraph” means an electric, galvanic or magnetic telegraph, and includes appliances and apparatus for transmitting or making telegraphic, telephonic or other communications by means of electricity, galvanism or magnetism :

(2) “telegraph officer” means any person employed either permanently or temporarily in connection with a telegraph established, maintained or worked by the Government or by a person licensed under this Act :

(3) “message” means any communication sent by telegraph, or given to a telegraph officer to be sent by telegraph or to be delivered :

(4) “telegraph line” means a wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same :

(5) “post” means a post, pole, standard, stay, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line :

(6) “telegraph authority” means the Director General of Telegraphs, and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act :

(7) “local authority” means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund.

PART II.

PRIVILEGES AND POWERS OF THE GOVERNMENT.

Exclusive
privilege in
respect of

4. Within British India, the Governor General in Council shall have the exclusive privilege of establishing, maintaining and working telegraphs :

(Part II.—Privileges and Powers of the Government. Secs. 5-7.)

Provided that the Governor General in Council may grant a license, on such conditions and in consideration of such payments as he thinks fit, to any person to establish, maintain or work a telegraph within any part of British India.

telegraphs,
and power
to grant
licenses.

5. (1) On the occurrence of any public emergency, or in the interest of the public safety, the Governor General in Council or a Local Government, or any officer specially authorized in this behalf by the Governor General in Council, may—

Power for
Government
to take
possession of
licensed tele-
graphs and
to order
interception
of messages.

(a) take temporary possession of any telegraph established, maintained or worked by any person licensed under this Act; or

(b) order that any message or class of messages to or from any person, or class of persons or relating to any particular subject, brought for transmission by, or transmitted or received by, any telegraph, shall not be transmitted, or shall be intercepted or detained, or shall be disclosed to the Government or an officer thereof mentioned in the order.

(2) If any doubt arises as to the existence of a public emergency, or whether any act done under sub-section (1) was in the interest of the public safety, a certificate signed by a Secretary to the Government of India or to the Local Government shall be conclusive proof on the point.

6. Any Railway Company, on being required so to do by the Governor General in Council, shall permit the Government to establish and maintain a telegraph upon any part of the land of the Company, and shall give every reasonable facility for working the same.

Power to
establish
telegraph on
land of
Railway
Company.

7. (1) The Governor General in Council may, from time to time, by notification in the Gazette of India, make rules consistent with this Act for the conduct of all or any telegraphs established, maintained or worked by the Government or by persons licensed under this Act.

Power to
make rules
for the con-
duct of tele-
graphs.

(2) Rules under this section may provide for all or any of the following, among other matters, that is to say:—

(a) the rates at which, and the other conditions and restrictions subject to which, messages shall be transmitted;

(b) the precautions to be taken for preventing the improper interception or disclosure of messages;

(c) the period for which, and the conditions subject to which, telegrams and other documents belonging to, or being in the custody of, telegraph officers shall be preserved; and

(d) the fees to be charged for searching for telegrams or other documents in the custody of any telegraph officer.

(Part II.—*Privileges and Powers of the Government. Secs. 8-9. Part III.—
Power to place Telegraph Lines and Posts. Sec. 10.*)

(3) When making rules for the conduct of any telegraph established, maintained or worked by any person licensed under this Act, the Governor General in Council may by the rules prescribe fines for any breach of the same :

Provided that the fines so prescribed shall not exceed the following limits, namely :—

- (i) when the person licensed under this Act is punishable for the breach, one thousand rupees, and in the case of a continuing breach a further fine of two hundred rupees for every day after the first during the whole or any part of which the breach continues ;
- (ii) when a servant of the person so licensed, or any other person, is punishable for the breach, one-fourth of the amounts specified in clause (i).

Revocation
of licenses.

8. The Governor General in Council may, at any time, revoke any license granted under section 4, on the breach of any of the conditions therein contained, or in default of payment of any consideration payable thereunder.

Government
not responsi-
ble for loss
or damage.

9. The Secretary of State for India in Council shall not be responsible for any loss or damage which may occur in consequence of any telegraph officer failing in his duty with respect to the receipt, transmission or delivery of any message ; and no such officer shall be responsible for any such loss or damage, unless he causes the same negligently, maliciously or fraudulently.

PART III.

POWER TO PLACE TELEGRAPH LINES AND POSTS.

Power for
telegraph
authority to
place and
maintain
telegraph
lines and
posts.

10.* The telegraph authority may, from time to time, place and maintain a telegraph line under, over, along or across, and posts in or upon, any immovable property :

Provided that—

- (a) the telegraph authority shall not exercise the powers conferred by this section except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained ;
- (b) the Government shall not acquire any right other than that of user only in the property under, over, along, across, in or upon which the telegraph authority places any telegraph line or post ; and,

* For power of Governor General in Council to confer upon any public officer any of the powers of the telegraph authority with respect to the placing of lines and posts, see Act XIII of 1887, s.6, *infra*, p.159.

(Part III.—Power to place Telegraph Lines and Posts. Secs. 11-14.)

- (c) except as hereinafter provided, the telegraph authority shall not exercise those powers in respect of any property vested in or under the control or management of any local authority, without the permission of that authority ; and
- (d) in the exercise of the powers conferred by this section, the telegraph authority shall do as little damage as possible, and, when it has exercised those powers in respect of any property other than that referred to in clause (c), shall pay full compensation to all persons interested for any damage sustained by them by reason of the exercise of those powers.

11. The telegraph authority may, at any time, for the purpose of examining, repairing, altering or removing any telegraph line or post, enter on the property under, over, along, across, in or upon which the line or post has been placed.

Power to enter on property in order to repair or remove telegraph lines or posts.

Provisions applicable to Property vested in or under the Control or Management of Local Authorities.

12. Any permission given by a local authority under section 10, clause (c), may be given subject to such reasonable conditions as that authority thinks fit to impose, as to the payment of any expenses to which the authority will necessarily be put in consequence of the exercise of the powers conferred by that section, or as to the time or mode of execution of any work, or as to any other thing connected with or relative to any work undertaken by the telegraph authority under those powers.

Power for local authority to give permission under section 10, clause (c), subject to conditions.

13. When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property vested in or under the control or management of a local authority, and the local authority, having regard to circumstances which have arisen since the telegraph line or post was so placed, considers it expedient that it should be removed or that its position should be altered, the local authority may require the telegraph authority to remove it or alter its position, as the case may be.

Power for local authority to require removal or alteration of telegraph line or post.

14. The telegraph authority may, for the purpose of exercising the powers conferred upon it by this Act in respect of any property vested in or under the control or management of a local authority, alter the position thereunder of any pipe (not being a main) for the supply of gas or water, or of any drain (not being a main drain) :

Power to alter position of gas or water pipes or drains.

Provided that—

- (a) when the telegraph authority desires to alter the position of any such

(Part III.—Power to place Telegraph Lines and Posts. Secs. 15-16.)

pipe or drain it shall give reasonable notice of its intention to do so, specifying the time at which it will begin to do so, to the local authority, and, when the pipe or drain is not under the control of the local authority, to the person under whose control the pipe or drain is;

- (b) a local authority or person receiving notice under clause (a) may send a person to superintend the work, and the telegraph authority shall execute the work to the reasonable satisfaction of the person so sent.

Disputes
between tele-
graph author-
ity and local
authority.

15. (1) If any dispute arises between the telegraph authority and a local authority in consequence of the local authority refusing the permission referred to in section 10, clause (c), or prescribing any condition under section 12, or in consequence of the telegraph authority omitting to comply with a requisition made under section 13, or otherwise in respect of the exercise of the powers conferred by this Act, it shall be determined by such officer as the Local Government may appoint either generally or specially in this behalf.

(2) An appeal from the determination of the officer so appointed shall lie to the Local Government; and the order of the Local Government shall be final.

Provisions applicable to other Property.

Exercise
of powers
conferred by
section 10,
and disputes
as to compen-
sation, in
case of pro-
perty other
than that of
a local author-
ity.

16. (1) If the exercise of the powers mentioned in section 10 in respect of property referred to in clause (d) of that section is resisted or obstructed, the District Magistrate may, in his discretion, order that the telegraph authority shall be permitted to exercise them.

(2) If, after the making of an order under sub-section (1), any person resists the exercise of those powers, or, having control over the property, does not give all facilities for their being exercised, he shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

XLV of 1860.

(3) If any dispute arises concerning the sufficiency of the compensation to be paid under section 10, clause (d), it shall, on application for that purpose by either of the disputing parties to the District Judge within whose jurisdiction the property is situate, be determined by him.

(4) If any dispute arises as to the persons entitled to receive compensation, or as to the proportions in which the persons interested are entitled to share in it, the telegraph authority may pay into the Court of the District Judge such amount as he deems sufficient or, where all the disputing parties have in writing admitted the amount tendered to be sufficient or the amount has been determined under sub-section (3), that amount; and the District Judge, after giving notice to the parties and hearing such of them as desire to be heard,

(Part III.—Power to place Telegraph Lines and Posts. Secs. 17-19.)

shall determine the persons entitled to receive the compensation or, as the case may be, the proportions in which the persons interested are entitled to share in it.

(5) Every determination of a dispute by a District Judge under sub-section (3) or sub-section (4) shall be final :

Provided that nothing in this sub-section shall affect the right of any person to recover by suit the whole or any part of any compensation paid by the telegraph authority, from the person who has received the same.

17. (1) When, under the foregoing provisions of this Act, a telegraph line or post has been placed by the telegraph authority under, over, along, across, in or upon any property, not being property vested in or under the control or management of a local authority, and any person entitled to do so desires to deal with that property in such a manner as to render it necessary or convenient that the telegraph line or post should be removed to another part thereof or to a higher or lower level or altered in form, he may require the telegraph authority to remove or alter the line or post accordingly :

Removal or alteration of telegraph line or post on property other than that of a local authority.

Provided that, if compensation has been paid under section 10, clause (d), he shall, when making the requisition, tender to the telegraph authority the amount requisite to defray the expense of the removal or alteration, or half of the amount paid as compensation, whichever may be the smaller sum.

(2) If the telegraph authority omits to comply with the requisition, the person making it may apply to the District Magistrate within whose jurisdiction the property is situate to order the removal or alteration.

(3) A District Magistrate receiving an application under sub-section (2) may, in his discretion, reject the same or make an order, absolutely or subject to conditions, for the removal of the telegraph line or post to any other part of the property or to a higher or lower level or for the alteration of its form ; and the order so made shall be final.

Provisions applicable to all Property.

18. (1) If any tree standing or lying near a telegraph line interrupts, or is likely to interrupt, telegraphic communication, a Magistrate of the first or second class may, on the application of the telegraph authority, cause the tree to be removed or dealt with in such other way as he deems fit.

Removal of trees interrupting telegraphic communication.

(2) When disposing of an application under sub-section (1), the Magistrate shall, in the case of any tree in existence before the telegraph line was placed, award to the persons interested in the tree such compensation as he thinks reasonable, and the award shall be final.

19. Every telegraph line or post placed before the passing of this Act

Telegraph

(Part IV.—Penalties. Secs. 20-24.)

lines and posts placed before the passing of this Act.

under, over, along, across in or upon any property, for the purposes of a telegraph established or maintained by the Government, shall be deemed to have been placed in exercise of the powers conferred by, and after observance of all the requirements of, this Act.

PART IV.

PENALTIES.

Establishing, maintaining or working unlicensed telegraph or breaking condition of license.

20. If any person establishes, maintains or works a telegraph within British India, otherwise than as permitted by a license granted under section 4, or breaks any condition contained in such a license, he shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to five hundred rupees for every week during which the line is maintained or worked or the breach of the condition continues.

Using such telegraphs.

21. If any person, knowing or having reason to believe that a telegraph has been established or is maintained or worked in contravention of this Act, transmits or receives any message by such telegraph, or performs any service incidental thereto, or delivers any message for transmission by such telegraph or accepts delivery of any message sent thereby, he shall be punished with fine which may extend to fifty rupees.

Opposing establishment of telegraphs on railway land.

22. If a Railway Company, or an officer of a Railway Company, neglects or refuses to comply with the provisions of section 6, it or he shall be punished with fine which may extend to one thousand rupees for every day during which the neglect or refusal continues.

Intrusion into signal-room, trespass in telegraph office or obstruction.

23. If any person—

- (a) without permission of competent authority, enters the signal-room of a telegraph office of the Government, or of a person licensed under this Act, or
- (b) enters a fenced enclosure round such a telegraph office in contravention of any rule or notice not to do so, or
- (c) refuses to quit such room or enclosure on being requested to do so by any officer or servant employed therein, or
- (d) wilfully obstructs or impedes any such officer or servant in the performance of his duty,

he shall be punished with fine which may extend to five hundred rupees.

Unlawfully attempting to learn contents of messages.

24. If any person does any of the acts mentioned in section 23 with the intention of unlawfully learning the contents of any message, or of committing any offence punishable under this Act, he may (in addition to the fine with which

(Part IV.—Penalties. Secs. 25-28.)

he is punishable under section 23) be punished with imprisonment for a term which may extend to one year.

25. If any person, intending—

- (a) to prevent or obstruct the transmission or delivery of any message, or
- (b) to intercept or to acquaint himself with the contents of any message, or

Intentionally
damaging or
tampering
with tele-
graphs.

- (c) to commit mischief,

damages, removes, tampers with or touches any battery, machinery, telegraph line, post or other thing whatever, being part of or used in or about any telegraph or in the working thereof,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

26. If any telegraph officer, or any person, not being a telegraph officer but having official duties connected with any office which is used as a telegraph office,—

Telegraph
officer or
other official
making away
with or alter-
ing, or un-
lawfully
intercepting
or disclosing,
messages, or
divulging
purport of
signals.

- (a) wilfully secretes, makes away with or alters any message which he has received for transmission or delivery, or
- (b) wilfully and otherwise than in obedience to an order of the Governor General in Council or of a Local Government, or of an officer specially authorized by the Governor General in Council to make the order, omits to transmit, or intercepts or detains, any message or any part thereof, or otherwise than in pursuance of his official duty or in obedience to the direction of a competent Court, discloses the contents or any part of the contents of any message, to any person not entitled to receive the same, or
- (c) divulges the purport of any telegraphic signal to any person not entitled to become acquainted with the same,

he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

27. If any telegraph officer transmits by telegraph any message on which the charge prescribed by the Government, or by a person licensed under this Act, as the case may be, has not been paid, intending thereby to defraud the Government or that person, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Telegraph
officer fraud-
ulently send-
ing messages
without pay-
ment.

28. If any telegraph officer, or any person not being a telegraph officer but having official duties connected with any office which is used as a telegraph office, is guilty of any act of drunkenness, carelessness or other misconduct whereby the correct transmission or the delivery of any message is impeded or delayed, or if any telegraph officer loiters or delays in the trans-

Misconduct.

(Part IV.—Penalties. Secs. 29-32. Part V.—Supplemental Provision.
Sec. 33.)

mission or delivery of any message, he shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Sending
fabricated
message.

29. If any person transmits or causes to be transmitted by telegraph a message which he knows to be false or fabricated, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

Retaining
a message
delivered by
mistake.

30. If any person fraudulently retains, or wilfully secretes, makes away with or detains a message which ought to have been delivered to some other person, or, being required by a telegraph officer to deliver up any such message, neglects or refuses to do so, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Bribery.

31. A telegraph officer shall be deemed a public servant within the meaning of sections 161, 162, 163, 164 and 165 of the Indian Penal Code; and, in the definition of "legal remuneration" contained in the said section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a person licensed under this Act. XL

Attempts to
commit
offences.

32. Whoever attempts to commit any offence punishable under this Act shall be punished with the punishment herein provided for the offence.

PART V.

SUPPLEMENTAL PROVISION.

Power to
employ addi-
tional police
in places
where mis-
chief to tele-
graphs is
repeatedly
committed.

33. (1) Whenever it appears to the Local Government that any act causing or likely to cause wrongful damage to any telegraph is repeatedly and maliciously committed in any place, and that the employment of an additional police-force in that place is thereby rendered necessary, the Local Government may send such additional police-force as it thinks fit to the place, and employ the same therein so long as, in the opinion of that Government, the necessity of doing so continues.

(2) The inhabitants of the place shall be charged with the cost of the additional police-force, and the District Magistrate shall, subject to the orders of the Local Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

(3) All moneys payable under sub-section (2) shall be recoverable either under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter within the local limits of his jurisdiction, or by suit in any competent Court.

(4) The Local Government may, by order in writing, define the limits of any place for the purposes of this section.

34.^a (1) This Act, in its application to the presidency-towns, shall be read as if for the words "District Magistrate" in section 16, sub-section (1), and section 17, sub-sections (2) and (3), for the words "Magistrate of the first or second class" in section 18, sub-section (1), and for the word "Magistrate" in section 18, sub-section (2), there had been enacted the words "Commissioner of Police," and for the words "District Judge" in section 16, sub-sections (3), (4) and (5), the words "Chief Judge of the Court of Small Causes."

Application of Act to presidency-towns and Rangoon.

(2) Section 16, in its application to the town of Rangoon, shall be read as if for the words "District Judge," whenever they occur in that section, there had been enacted the words "Judge of the Court of Small Causes."

VII of 1870.

(3) The fee in respect of an application to the Chief Judge of a Presidency Court of Small Causes under sub-section (3) of section 16 shall be the same as would be payable under the Court-fees Act, 1870, in respect of such an application to a District Judge beyond the limits of a presidency-town, and fees for summonses and other processes in proceedings before the Chief Judge under sub-section (3) or sub-section (4) of that section shall be payable according to the scale set forth in the fourth schedule to the Presidency Small Cause Courts Act, 1882.

XV of 1882.

ACT No. XV OF 1885.^b

Received the Governor General's assent on the 2nd October, 1885.

An Act to amend the Local Authorities Loan Act, 1879.

XI of 1879.

WHEREAS it is expedient to amend the Local Authorities Loan Act, 1879; It is hereby enacted as follows:—

1. After clause (b) of the proviso to section 8 of the said Act the following shall be added:—

Addition to section 8, Act XI of 1879.

"or

"(c) to affect the power conferred on any local authority by any such enactment to charge its funds by guaranteeing the payment of interest on money to be applied to any purpose to which the funds of the local authority can legally be applied."

^a S. 34 has been added by Act XI of 1888—see *infra*, p. 247.

^b This Act has been declared in force in the South Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2, and under s. 5 of the Scheduled Districts Act, 1874, it has been extended to Upper Burma (except the Shan States)—see *Burma Gazette*, 17th November, 1888, Pt. I, p. 544, and *Gazette of India*, 26th January, 1889, Pt. I, p. 51.

THE LAND ACQUISITION (MINES) ACT, 1885.

CONTENTS.

SECTIONS.

1. Short title, commencement and local extent.
2. Saving for mineral rights of the Government.
3. Declaration that mines are not needed.
4. Notice to be given before working mines lying under land.
5. Power to prevent or restrict working.
6. Mode of determining persons interested and amount of compensation.
7. If Local Government does not offer to pay compensation, mines may be worked in a proper manner.
8. Mining communications.
9. Local Government to pay compensation for injury done to mines,
10. and also for injury arising from any airway or other work.
11. Power to officer of Local Government to enter and inspect the working of mines.
12. Penalty for refusal to allow inspection.
13. If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.
14. Construction of Act when land acquired has been transferred to a local authority or Company.
15. Pending cases.
16. Definition of local authority and Company.
17. This Act to be read with Land Acquisition Act, 1870.

ACT No. XVIII OF 1885.^a

Received the Governor General's assent on the 16th October, 1885.

An Act to provide for cases in which Mines or Minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870.

WHEREAS it is expedient to provide for cases in which mines or minerals are situate under land which it is desired to acquire under the Land Acquisition Act, 1870 ; It is hereby enacted as follows :—

X of 1870.

1. (1) This Act may be called the Land Acquisition (Mines) Act, 1885 ; and

(2) It shall come into force at once.

Short title,
commence-
ment and
local extent.

^a This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

(Secs. 2-5.)

(3) It extends in the first instance to the territories administered by the Governor of Madras in Council and the Lieutenant-Governor of Bengal, but any other Local Government may, from time to time, by notification in the official Gazette, extend this Act to the whole or any specified part of the territories under its administration.

2. Except as expressly provided by this Act, nothing in this Act shall affect the right of the Government to any mines or minerals.

Saving for mineral rights of the Government.

3. (1) When the Local Government makes a declaration under section 6 of the Land Acquisition Act, 1870, that land is needed for a public purpose or for a Company, it may, if it thinks fit, insert in the declaration a statement that the mines of coal, iron-stone, slate or other minerals lying under the land or any particular portion of the land, except only such parts of the mines or minerals as it may be necessary to dig or carry away or use in the construction of the work for the purpose of which the land is being acquired, are not needed.

Declaration that mines are not needed.

(2) When a statement as aforesaid has not been inserted in the declaration made in respect of any land under section 6 of the Land Acquisition Act, 1870, and the Collector is of opinion that the provisions of this Act ought to be applied to the land, he may abstain from tendering compensation under section 11 of the said Land Acquisition Act in respect of the mines, and may—

- (a) when he makes an award under section 14 of that Act, insert such a statement in his award;
- (b) when he makes a reference to the Court under section 15 of that Act, insert such a statement in his reference; or
- (c) when he takes possession of the land under section 17 of that Act, publish such a statement in such manner as the Governor General in Council may, from time to time, prescribe.

(3) If any such statement is inserted in the declaration, award or reference, or published as aforesaid, the mines of coal, iron-stone, slate or other minerals under the land or portion of the land specified in the statement, except as aforesaid, shall not vest in the Government when the land so vests under the said Act.

4. If the person for the time being immediately entitled to work or get any mines or minerals lying under any land so acquired is desirous of working or getting the same, he shall give the Local Government notice in writing of his intention so to do sixty days before the commencement of working.

Notice to be given before working mines lying under land.

5. (1) At any time or times after the receipt of a notice under the last foregoing section, and whether before or after the expiration of the said period

Power to prevent or

restrict
working.

of sixty days, the Local Government may cause the mines or minerals to be inspected by a person appointed by it for the purpose; and

(2) If it appears to the Local Government that the working or getting of the mines or minerals, or any part thereof, is likely to cause damage to the surface of the land or any works thereon, the Local Government may publish in such manner as the Governor General in Council may, from time to time, direct, a declaration of its willingness, either—

(a) to pay compensation for the mines or minerals still unworked or ungotten, or that part thereof, to all persons having an interest in the same; or

(b) to pay compensation to all such persons in consideration of those mines or minerals, or that part thereof, being worked or gotten in such manner and subject to such restrictions as the Local Government may in its declaration specify.

(3) If the declaration mentioned in case (a) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person.

(4) If the declaration mentioned in case (b) is made, then those mines or minerals, or that part thereof, shall not thereafter be worked or gotten by any person save in the manner and subject to the restrictions specified by the Local Government.

Mode of
determining
persons
interested
and amount
of compensa-
tion.

6. When the working or getting of any mines or minerals has been prevented or restricted under section 5, the persons interested in those mines or minerals and the amounts of compensation payable to them respectively shall, subject to all necessary modifications, be ascertained in the manner provided by the Land Acquisition Act, 1870, for ascertaining the persons interested in the land to be acquired under that Act, and the amounts of compensation payable to them, respectively. X of 1870.

If Local Gov-
ernment does
not offer to
pay compen-
sation, mines
may be work-
ed in a proper
manner.

7. (1) If before the expiration of the said sixty days the Local Government does not publish a declaration as provided in section 5, the owner, lessee or occupier of the mines may, unless and until such a declaration is subsequently made, work the mines or any part thereof in a manner proper and necessary for the beneficial working thereof, and according to the usual manner of working such mines in the local area where the same are situate.

(2) If any damage or obstruction is caused to the surface of the land or any works thereon by improper working of the mines, the owner, lessee or occupier of the mines shall at once, at his own expense, repair the damage or remove the obstruction, as the case may require.

(3) If the repair or removal is not at once effected, or, if the Local Gov-

ernment so thinks fit, without waiting for the same to be effected by the owner, lessee or occupier, the Local Government may execute the same and recover from the owner, lessee or occupier the expense occasioned thereby.

8. If the working of any mines is prevented or restricted under section 5, the respective owners, lessees and occupiers of the mines, if their mines extend so as to lie on both sides of the mines the working of which is prevented or restricted, may cut and make such and so many airways, headways, gateways or water-levels through the mines, measures or strata, the working whereof is prevented or restricted, as may be requisite to enable them to ventilate, drain, and work their said mines; but no such airway, headway, gateway or water-level shall be of greater dimensions or section than may be prescribed by the Governor General in Council in this behalf, and, where no dimensions are so prescribed, not greater than eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the surface or works, or so as to injure the same, or to interfere with the use thereof.

Mining communications.

9. The Local Government shall, from time to time, pay to the owner, lessee or occupier of any such mines extending so as to lie on both sides of the mines, the working of which is prevented or restricted, all such additional expenses and losses as may be incurred by him by reason of the severance of the lands lying over those mines or of the continuous working of those mines being interrupted as aforesaid, or by reason of the same being worked in such manner and under such restrictions as not to prejudice or injure the surface or works, and for any minerals not acquired by the Local Government which cannot be obtained by reason of the action taken under the foregoing sections; and if any dispute or question arises between the Local Government and the owner, lessee or occupier as aforesaid, touching the amount of those losses or expenses, the same shall be settled as nearly as may be in the manner provided for the settlement of questions touching the amount of compensation payable under the Land Acquisition Act, 1870.

Local Government to pay compensation for injury done to mines;

X of 1870.

10. If any loss or damage is sustained by the owner or occupier of the lands lying over any such mines, the working whereof has been so prevented or restricted as aforesaid (and not being the owner, lessee or occupier of those mines), by reason of the making of any such airway or other works as aforesaid, which or any like work it would not have been necessary to make but for the working of the mines having been so prevented or restricted as aforesaid, the Local Government shall pay full compensation to that owner or occupier of the surface lands for the loss or damage so sustained by him.

and also for injury arising from any airway or other work.

11. For better ascertaining whether any mines lying under land acquired in accordance with the provisions of this Act are being worked, or have been

Power to officer of Local Govern-

ment to enter and inspect the working of mines.

worked, or are likely to be worked so as to damage the land or the works thereon, an officer appointed for this purpose by the Local Government may, after giving twenty-four hours' notice in writing, enter into and return from any such mines or the works connected therewith; and for that purpose the officer so appointed may make use of any apparatus or machinery belonging to the owner, lessee or occupier of the mines, and use all necessary means for discovering the distance from any part of the land acquired to the parts of the mines which have been, are being or are about to be worked.

Penalty for refusal to allow inspection.

12. If any owner, lessee or occupier of any such mines or works refuses to allow any officer appointed by the Local Government for that purpose to enter into and inspect any such mines or works in manner aforesaid, he shall be punished with fine which may extend to two hundred rupees.

If mines worked contrary to provisions of this Act, Local Government may require means to be adopted for safety of land acquired.

13. If it appears that any such mines have been worked contrary to the provisions of this Act, the Local Government may, if it thinks fit, give notice to the owner, lessee or occupier thereof to construct such works and to adopt such means as may be necessary or proper for making safe the land acquired, and the works thereon, and preventing injury thereto; and if, after such notice, any such owner, lessee or occupier does not forthwith proceed to construct the works necessary for making safe the land acquired and the works thereon, the Local Government may itself construct the works and recover the expense thereof from the owner, lessee or occupier.

Construction of Act when land acquired has been transferred to a local authority or Company.

14. When a statement under section 3 has been made regarding any land, and the land has been acquired by the Government, and has been transferred to, or has vested, by operation of law, in a local authority or Company, then sections 4 to 13, both inclusive, shall be read as if for the words "the Local Government", wherever they occur in those sections, the words "the local authority or Company, as the case may be, which has acquired the land" were substituted.

Pending cases.

15. (1) This Act shall apply to any land for the acquisition whereof proceedings under the Land Acquisition Act, 1870, are pending at the time when this Act comes into force, unless before that time the Collector has made, in respect of the land, an award under section 14 or a reference to the Court under section 15 of that Act, or has taken possession of the land under section 17 of the same. X of 1870

(2) When the Collector has before the said time made an award or reference in respect of any such land or taken possession thereof as aforesaid, and all the persons interested in the land, or entitled under the Land Acquisition Act, 1870, to act for persons so interested, who have attended or may attend in the course of the proceedings under sections 11 to 15, both inclusive, of the

X of 1870.

Land Acquisition Act, 1870, consent in writing to the application of this Act to the land, the Collector may by an order in writing direct that it shall apply, and thereupon it shall be deemed to have applied from the commencement of the proceedings; and the Collector shall be deemed, as the case may be, to have inserted in his award or reference, or to have published in the prescribed manner, when he took possession, the statement mentioned in section 3 of this Act.

16. In this Act—

(a) “local authority” means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund; and

(b) “Company” means a Company registered under any of the enactments relating to Companies from time to time in force in British India, or formed in pursuance of an Act of Parliament or by Royal Charter or Letters Patent.

Definition of
local au-
thority and
Company.

I of 1870.

17. This Act shall, for the purposes of all enactments for the time being in force, be read with and taken as part of the Land Acquisition Act, 1870.

This Act to
be read with
Land Ac-
quisition
Act, 1870.

AN ACT FOR IMPOSING A TAX ON INCOME DERIVED FROM SOURCES OTHER THAN AGRICULTURE.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Extent and commencement.
2. Repeal.
3. Definitions.

CHAPTER II.

LIABILITY TO TAX.

4. Incomes liable to the tax.
5. Exceptions.
6. Power to make exemptions.

CHAPTER III.

ASSESSMENT AND COLLECTION.

A.—Salaries and Pensions.

SECTIONS.

7. Mode of payment in case of Government officials and pensioners.
8. Mode of payment in case of servants and pensioners of local authorities.
9. Mode of payment in case of servants and pensioners of companies and private employers.
10. Annual return by principal officer of company or association.

B.—Profits of Companies.

11. Annual statement of nett profits.
12. Power to require officers of companies to produce accounts.

C.—Interest on Securities.

13. Mode of payment of tax on interest on securities.

D.—Other Sources of Income.

Ordinary Mode of Assessment and Collection.

14. Collector to determine persons chargeable.
15. Mode of making assessment.
16. List of incomes under two thousand rupees.
17. Notices to persons with incomes of two thousand rupees and upwards.
18. Power to modify ordinary procedure in special cases.
19. Time and place of payment.

Trustees, Agents, Managers and Incapacitated Persons.

20. Trustees, guardians and committees of incapacitated persons to be charged.
21. Non-residents to be charged in names of their agents.
22. Receivers, Managers, Courts of Wards, Administrators General and Official Trustees.
23. Power to retain duties charged on trustees, &c.

Occupying Owners.

24. Provision for tax on occupying owners.

CHAPTER IV.

REVISION OF ASSESSMENT.

25. Petition to Collector against assessment under Part IV.
26. Hearing of petition.
27. Petition to Commissioner for revision.
28. Power to summon witnesses, &c.

CHAPTER V.

RECOVERY OF ARREARS OF TAX.

SECTIONS.

- 29. Tax when payable.
 - 30. Mode and time of recovery.
-

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Composition.

- 31. Agreements for composition.

Receipts.

- 32. Receipts and their contents.

Amendment of Assessment.

- 33. Amendment of assessment.

Penalties.

- 34. Failure to make payments or deliver returns or statements.
- 35. False statement in declaration.
- 36. Prosecution to be at instance of Collector.
- 37. Sections 193 and 228 of Penal Code to apply to proceedings.

Power to make Rules.

- 38. Power to make rules.

Miscellaneous.

- 39. Bar of suits in Civil Court.
 - 40. Exercise of powers of Collector and Commissioner.
 - 41. Obligation to furnish information respecting lodgers and employés.
 - 42. Trustees and agents to furnish information as to beneficiaries and principals.
 - 43. Trustees, &c., to furnish information as to income.
 - 44. Obligation to furnish other information.
 - 45. Sections 176 and 177 of Penal Code to apply to requisitions for information.
 - 46. Service of notices.
 - 47. Power to declare principal place of business or residence.
 - 48. Saving in favour of payers of pandhari and capitation taxes.
 - 49. Indemnity.
 - 50. Powers exerciseable from time to time.
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THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—SOURCES OF INCOME AND RATES OF TAX.

THE THIRD SCHEDULE.—FORM OF PETITION.

ACT No. II OF 1886.^a

Received the Governor General's assent on the 29th January, 1886.

An Act for imposing a tax on income derived from sources
other than agriculture.

WHEREAS it is expedient to impose a tax on income derived from sources
other than agriculture; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Extent and
commence-
ment.

1. (1) This Act extends to the whole of British India, and applies also, within the dominions of Princes and States in India in alliance with Her Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor General in Council in that behalf; and

(2) It shall come into force on the first day of April, 1886.

(3) Any power conferred by this Act to make rules or to issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

Repeal.

2. On and from the day on which this Act comes into force the enactments specified in the first schedule to this Act shall be repealed, except as to fees payable and other sums due under those enactments and the mode of recovering the same.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “local authority” means any municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of any municipal or local fund:

(2) “company” means an association carrying on business in British India, whose stock or funds is or are divided into shares and transferable, whether the company is incorporated or not, and whether its principal place of business is situate in British India or not:

(3) “prescribed” means prescribed by the Governor General in Council by notification in the Gazette of India, or by the Governor General in Council or a Local Government by rules made under this Act:

^a This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, as amended by Reg. III of 1886, s. 2.

(Chapter II.—Liability to Tax. Sec. 4.)

(4) "salary" includes allowances, fees, commissions, perquisites or profits received in lieu of or in addition to a fixed salary, in respect of an office or employment of profit; but, subject to any rules which may be prescribed in this behalf, it does not include travelling, tentage, horse or sumptuary allowance, or any other allowance granted to meet specific expenditure:

(5) "income" means income and profits accruing and arising or received in British India, and includes, in the case of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty, any salary, annuity, pension or gratuity payable to that subject by the Government or by a local authority established in the exercise of the powers of the Governor General in Council in that behalf:

(6) "Magistrate" means a Presidency Magistrate or a Magistrate of the first or second class:

(7) "person" includes a firm and a Hindu undivided family:

(8) "defaulter" includes a company or firm making default under this Act:

(9) "Collector" means the chief officer in charge of the revenue-administration of a district, and, in a presidency-town, any officer whom the Local Government, by notification in the official Gazette, may, by name or by virtue of his office, appoint to be a Collector for the purposes of this Act; in the case of a company or firm, it means the Collector, as here defined, of the district or presidency-town in which its principal place of business in British India is situate; and, in the case of any other person chargeable under this Act, it means the Collector, defined as aforesaid, of the district or presidency-town in which the person has his residence:

(10) "principal officer", used with reference to a local authority or a company or any other public body or association not being a local authority or company, means—

(a) the secretary, treasurer, manager or agent of the authority, company, body or association; or

(b) any person connected with the authority, company, body or association upon whom the Collector has caused a notice to be served of his intention of treating him as the principal officer thereof; and

(11) "Part" means a part of the second schedule to this Act.

CHAPTER II.

LIABILITY TO TAX.

4. Subject to the exceptions mentioned in the next following section, there Incomes

(Chapter II.—*Liability to Tax.* Sec. 5.)

liable to the
tax.

shall be paid, in the year beginning with first day of April, 1886, and each subsequent year, to the credit of the Government of India, or as the Governor General in Council directs, in respect of the sources of income specified in the first column of the second schedule to this Act, a tax at the rate specified in that behalf in the second column of that schedule.

Exceptions.

5. (1) Nothing in section 4 shall render liable to the tax—

(a) any rent or revenue derived from land which is used for agricultural purposes and is either assessed to land-revenue or subject to a local rate assessed and collected by officials of the Government, as such ; or

(b) any income derived from—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce ; or

(c) any building owned and occupied by the receiver of the rent or revenue of any such land as is referred to in clause (a), or by the cultivator, or the receiver of rent-in-kind, of any land with respect to which or the produce whereof any operation mentioned in clause (b) is carried on :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue, or the cultivator or the receiver of the rent-in-kind, by reason of his connection with the land, requires as a dwelling-house, or as a store-house, factory or other out-building : or

(d) any profits of a shipping company incorporated or registered out of British India and having its principal place of business out of India and its ships ordinarily engaged in seagoing traffic out of Indian waters ; or

(e) any income derived from property solely employed for religious or public charitable purposes ; or

(f) any income which a person enjoys as a member of a company or of a firm or of a Hindu undivided family when the company or the firm or the family is liable to the tax ; or,

(g) subject to any conditions and restrictions which may be prescribed in this behalf, such portion, not exceeding one-sixth, of the income in respect whereof a person would, but for this exception, be chargeable under this Act, as is deducted from the salary of the person under the authority or with the

(Chapter II.—*Liability to Tax.* Sec. 6. Chapter III.—*Assessment and Collection.* Secs. 7-8.)

permission of the Government for the purpose of securing a deferred annuity to him or a provision to his wife or children after his death or is paid by the person to an insurance company in respect of an insurance or deferred annuity on his own life or on the life of his wife; or

(h) any interest on stock-notes; or

(i) the salary of any officer, warrant-officer, non-commissioned officer or private of Her Majesty's Forces or of Her Majesty's Indian Forces who is not in an employment which, according to the ordinary practice, is held indifferently by military persons and civilians, and whose salary does not exceed five hundred rupees per mensem; or

(j) any person whose income from all sources is less than five hundred rupees per annum.

(2) An officer or servant is not exempt from taxation under this Act by reason only of the income of his employer being exempt therefrom under this section.

6. The Governor General in Council may, by notification in the Gazette of India, exempt from liability to the tax the whole or any part of the income of any class or tribe, or of any persons residing in any specified area, and may, by a like notification, revoke the exemption.

Power to make exemptions.

CHAPTER III.

ASSESSMENT AND COLLECTION.

A.—Salaries and Pensions.

7. In the case of a person receiving any salary, annuity, pension or gratuity from the Government, any sum payable to him by the Government in respect of the salary, annuity, pension or gratuity shall be reduced by the amount of the tax to which he is liable under Part I in respect thereof.

Mode of payment in case of Government officials and pensioners.

8. (1) In the case of a person receiving any salary, annuity, pension or gratuity from a local authority, the tax to which he is liable under Part I shall, at the time of the payment to him of any of the salary, annuity, pension or gratuity, be deducted therefrom by the officer whose duty it is to make the payment, and be paid by that officer within the prescribed time to the credit of the Government of India or as the Governor General in Council directs.

Mode of payment in case of servants and pensioners of local authorities.

(2) If that officer does not deduct and pay the tax as required by sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(Chapter III.—Assessment and Collection. Secs. 9-11.)

(3) If, when any payment is made, the tax is from any cause not deducted, it may, and on the requisition of the Collector shall, be deducted when any salary, annuity, pension or gratuity is subsequently paid to the person liable to the tax.

(4) The power to deduct under this section shall be without prejudice to any other mode of recovery.

Mode of payment in case of servants and pensioners of companies and private employers.

9. (1) The tax to which a person receiving any salary, annuity, pension or gratuity from a company, or from any other public body or association not being a local authority or company, or from a private employer, is liable under Part I shall be payable by him at the time when any portion of the salary, annuity, pension or gratuity is paid to him.

(2) The Collector may, subject to such conditions as may be prescribed, enter into an arrangement with any company, or any such body or association as aforesaid, or any private employer, with respect to the recovery on behalf of the Government by the company, body, association or employer of the tax to which any person receiving any salary, annuity, pension or gratuity from the company, body, association or employer is liable under Part I.

Annual return by principal officer of company or association.

10. The principal officer of every local authority, and of every company, and of every other public body or association not being a local authority or company, shall prepare, and, on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, in the prescribed form, a return in writing showing—

- (a) the name of every person who is receiving at the date of the return any salary, annuity or pension, or has received during the year ending on that date any gratuity, from the authority, company, body or association, as the case may be, and the address of every such person so far as it is known; and
- (b) the amount of the salary, annuity, pension or gratuity so received by each such person, and the time at which the same becomes payable or, in the case of a gratuity, was paid.

B.—Profits of Companies.

Annual statement of nett profits.

11. The principal officer in British India of every company shall prepare, and, on or before the fifteenth day of April in each year, deliver or cause to be delivered to the Collector, a statement in writing signed by him of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assess-

(Chapter III.—Assessment and Collection. Secs. 12-15.)

ment is to be made, then of the nett profits so made during the year ending on the said thirty-first day of March.

12. (1) If the Collector has reason to believe that a statement delivered under section 11 is incorrect or incomplete, he may cause to be served on the principal officer of the company a notice requiring him, on or before a date to be therein mentioned, either to attend at the Collector's office and produce, or to cause to be there produced, for the inspection of the Collector such of the accounts of the company as refer to the year to which the statement relates and as are in his possession or power.

Power to require officers of companies to produce accounts.

(2) On the day specified in the notice, or as soon afterwards as may be, the Collector shall, by an order in writing, determine the amount at which the company shall be assessed under Part II, and the time when the amount shall be paid, and, subject to the provisions of this Act, that amount shall be payable accordingly.

C.—Interest on Securities.

13. (1) The tax payable under Part III in respect of the interest on any of the securities mentioned in that Part shall, at the time when and place where any of the interest is paid, be deducted therefrom by the person empowered to pay the interest, and be paid by that person within the prescribed time to the credit of the Government of India or as the Governor General in Council directs.

Mode of payment of tax on interest on securities.

(2) If that person does not deduct and pay the tax as required by sub-section (1), he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

D.—Other Sources of Income.*Ordinary Mode of Assessment and Collection.*

14. The Collector shall, from time to time, determine what persons are chargeable under Part IV, and the amount at which every person so chargeable shall be assessed.

Collector to determine person chargeable.

15. (1) The assessment shall be made upon the income accruing to the person during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then upon the income accruing to him during the year ending on the said thirty-first day of March.

Mode of making assessment.

(2) In the case of a person for the first time becoming chargeable under Part IV within the year for which the assessment is to be made, or within the

(Chapter III.—Assessment and Collection. Secs. 16-18.)

year next before that year, the assessment shall be made according to an average of his income for such period as the Collector, having regard to the circumstances, directs.

List of
incomes
under two
thousand
rupees.

16. (1) The Collector shall in each year prepare a list of the persons chargeable under Part IV whose annual income does not, in his opinion, amount to two thousand rupees.

(2) The list shall be in the prescribed language or languages, and shall state in respect of every such person the following particulars, namely :—

- (a) his name, and the source or sources of the income in respect of which he is chargeable ;
- (b) the year or portion of the year for which the tax is to be paid ;
- (c) the place or places, district or districts, where the income accrues ;
- (d) the amount to be paid ; and
- (e) the place where, and the person to whom, the amount is to be paid.

(3) The list shall be filed in the office of the Collector, with a notification prefixed thereto requiring every person mentioned in the list to pay, within sixty days from a date specified in the notification, the amount stated in the list as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

(4) The list so filed shall be open to inspection at all reasonable times without any payment.

(5) The list, or such part or parts thereof as the Collector thinks fit, with the notification prefixed thereto, shall be further published in such manner as the Local Government may consider to be best adapted for giving information to all persons concerned.

(6) The list to be prepared in each year may be the list of the previous year with such amendments as the Collector finds to be necessary.

Notices to
persons with
incomes of
two thousand
rupees and
upwards.

17. In the case of a person chargeable under Part IV whose annual income is, in the Collector's opinion, two thousand rupees or upwards, the Collector shall cause a notice to be served on him stating the particulars (a) to (e), both inclusive, mentioned in section 16, sub-section (2), and requiring him to pay, within sixty days from a date specified in the notice, the amount stated therein as payable by him, or to apply to the Collector, within thirty days from that date, to have the assessment reduced or cancelled.

Power to
modify
ordinary
procedure
in special
cases.

18. (1) Notwithstanding anything contained in section 16 or section 17, the Local Government may make rules—

- (a) authorizing or directing a Collector in specified cases, or classes of cases, to include in a list under section 16 any person who is liable to be served with a notice under section 17 instead of or in addition

(Chapter III.—Assessment and Collection. Secs. 19-20.)

to serving him with such a notice, and to serve a notice under section 17 on any person liable to be included in a list under section 16 instead of or in addition to including him in such a list ;

- (b) authorizing the Collector in any specified town or place to cause a general notice to be published, inviting every person chargeable under Part IV to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form, published with the notice, of his income during the year ending on the day on which his accounts have been last made up, or, if his accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then of his income during the year ending on the said thirty-first day of March ;
- (c) authorizing the Collector in any presidency-town to cause a special notice to be served on any person chargeable under Part IV, inviting him to deliver or cause to be delivered to the Collector, within a time specified in the notice, a return, in a prescribed form, accompanying the notice, of his income computed in the manner prescribed in clause (b) of this sub-section.

(2) A return delivered under rules made under clause (b) or clause (c) of sub-section (1) must state the period during which the income has actually accrued ; and there must be added at the foot thereof a declaration that the income shown in the return is truly estimated on all the sources therein mentioned, that it has actually accrued within the period therein stated, and that the person making the return has no other source of income.

(3) When a Collector authorized in that behalf by rules made under clause (b) or clause (c) of sub-section (1) has caused a notice to be published or served under those rules, he shall not include any person to whom the notice applies in any list made under section 16 or serve a notice on him under section 17 until the time specified in the notice published or served under those rules has expired.

(4) Rules made under this section shall be published in the official Gazette.

19. Every amount specified as payable in a list or notice prepared or served under section 16 or section 17 shall be paid within the time, at the place, and to the person, mentioned in the list or notice.

Time and
place of pay-
ment.

Trustees, Agents, Managers and Incapacitated Persons.

20. A person being the trustee, guardian, curator or committee of any Trustees,

(Chapter III.—Assessment and Collection. Secs. 21-24.)

guardians
and commit-
tees of inca-
pacitated
persons to be
charged.

infant, married woman subject to the law of England, lunatic or idiot, and having the control of the property of the infant, married woman, lunatic or idiot, whether the infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot is chargeable under Part IV, be chargeable under that Part in like manner and to the same amount as the infant would be chargeable if he were of full age, or the married woman if she were sole, or the lunatic or idiot if he were capable of acting for himself.

Non-resi-
dents to be
charged in
names of
their agents.

21. Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under Part IV, shall be chargeable under that Part in the name of the agent in the like manner and to the like amount as he would be chargeable if he were resident in British India and in direct receipt of that income.

Receivers,
managers,
Courts of
Wards, Ad-
ministrators
General and
Official Trus-
tees.

22. Receivers or managers appointed by any Court in India, the Courts of Wards, the Administrators General of Bengal, Madras and Bombay, and the Official Trustees shall be chargeable under Part IV in respect of all income officially in their possession or under their control which is liable to assessment under that Part.

Power to
retain duties
charged on
trustees, &c.

23. When a trustee, guardian, curator, committee or agent is, as such, assessed under Part IV,

or when a receiver or manager appointed as aforesaid, a Court of Wards, an Administrator General or an Official Trustee is assessed under that Part in respect of income officially received,

the person or Court so assessed may, from time to time, out of the money coming to his or its possession as trustee, guardian, curator, committee or agent, or as receiver, manager, Court of Wards, Administrator General or Official Trustee, retain so much as is sufficient to pay the amount of the assessment.

Occupying Owners.

Provisions
for tax on
occupying
owners.

24. (1) Where a building is occupied by its owner, it shall be deemed a source of income within the meaning of this Act, and, if liable to be assessed under this Act, shall be assessed at five-sixths of the gross annual rent at which it may reasonably be expected to let, and, in the case of a dwelling-house, may be expected to let unfurnished.

(2) "Owner", as used in this section with reference to a building, means the person who would be entitled to receive the rent of the building if the building were let to a tenant.

(Chapter IV.—Revision of Assessment. Secs. 25-28. Chapter V.—Recovery of Arrears of Tax. Sec. 29.)

CHAPTER IV.

REVISION OF ASSESSMENT.

25. (1) Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under Part IV may apply by petition to the Collector to have the assessment reduced or cancelled.

Petition to Collector against assessment under Part IV.

(2) The petition shall ordinarily be presented within the period specified in the notification prefixed to the list filed under section 16, or in the notice served under section 17, as the case may be. But the Collector may receive a petition after the expiration of that period if he is satisfied that the objector had sufficient cause for not presenting it within that period.

(3) The petition shall, as nearly as circumstances admit, be in the form contained in the third schedule to this Act, and the statements contained in the petition shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints.

26. The Collector shall fix a day and place for the hearing of the petition, and on the day and at the place so fixed, or on the day and at the place, if any, to which he has adjourned the hearing, shall hear the petition and pass such order thereon as he thinks fit.

Hearing of petition.

27. Subject to the control of the Local Government, the Commissioner of the division, on the petition of any person deeming himself aggrieved by an order under section 12, sub-section (2), or section 26 shall, if the amount of the assessment to which the petition relates is two hundred and fifty rupees or upwards, and may in his discretion if the amount of the assessment is less than two hundred and fifty rupees, call for the record of the case, and pass such order thereon as he thinks fit.

Petition to Commissioner for revision.

28. The Collector or Commissioner may, for the purpose of enabling him to determine how the petitioner or the company which he represents should be assessed, summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means, and, as far as possible, in the same manner, as is provided in the case of a

Power to summon witnesses, &c.

XIV of 1882. Civil Court by the Code of Civil Procedure :

Provided that the Collector or Commissioner shall not call for any evidence except at the instance of the petitioner or in order to ascertain the correctness of facts alleged by him.

CHAPTER V.

RECOVERY OF ARREARS OF TAX.

29. The tax chargeable under this Act shall be payable at the time ap-

Tax when payable.

(Chapter V.—Recovery of Arrears of Tax. Sec. 30.)

pointed in that behalf in or under this Act, or, if a time is not so appointed, then on the first day of June in each year.

Mode and
time of re-
covery.

30. (1) In any case of default under this Act the Collector, in his discretion, may recover a sum not exceeding double the amount of the tax either as if it were an arrear of land-revenue or by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the territories administered by the Local Government to which he is subordinate, or may pass an order that a sum not exceeding double that amount shall be recovered from the defaulter :

Provided that, where a person has presented a petition under section 25, such sum shall not be recoverable from him unless, within thirty days from the passing of the order on the petition, he fails to pay the amount, if any, required by that order.

(2) The Local Government may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (1) for the recovery of the tax chargeable under this Act.

(3) An order passed by the Collector under sub-section (1) shall have the force of a decree of a Civil Court in a suit in which the Government is the plaintiff and the defaulter is the defendant; and the order may be enforced in manner provided by the Code of Civil Procedure for the enforcement of decrees for money; and the procedure under the said Code in respect of the following matters, namely :—

- (a) sales in execution of decrees,
- (b) arrest in execution of decrees for money,
- (c) execution of decrees by imprisonment,
- (d) claims to attached property, and
- (e) execution of decrees out of the jurisdiction of the Courts by which they were passed,

shall apply to every execution issued for levying the sum mentioned in the order; save that all the powers and duties conferred and imposed by the said Code upon the Court shall be exercised and discharged by the Collector by whom the order has been made or to whom a copy thereof has been sent for execution according to the provisions of the said Code, sections 223 and 224.

(4) The Local Government may direct, with respect to any specified area, that the tax chargeable under this Act shall be recovered therein with, and as

(Chapter VI.—Supplemental Provisions. Secs. 31-33.)

an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(5) No proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of three months from the last day of the year in respect of which the sum is payable.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

Composition.

31. (1) If a company or person desires to compound for the tax assessable under Part II or Part IV, as the case may be, the Collector may, subject to such rules as may be prescribed in this behalf, agree with the company or person for a composition for the tax on such terms and for such period as he thinks fit.

Agreements
for composi-
tion.

(2) The agreement shall provide for the payment, in each year of the period comprised in the agreement, of the amount of the composition; and that amount shall be recoverable in the same manner and by the same means as any other assessment made under Part II or Part IV, as the case may be.

Receipts.

32. When any money is paid under this Act to the Collector or is recovered thereunder by him, he shall give a receipt for the same, specifying—

Receipts and
their con-
tents.

- (a) the date of the payment or recovery of the money;
- (b) the amount paid or recovered;
- (c) the person who was liable to the tax, and the source or sources of income in respect of which the tax was payable;
- (d) the year or part of the year for which the tax was payable;
- (e) the place or places, district or districts, where the income accrues; and
- (f) such other particulars, if any, as may be prescribed.

Amendment of Assessment.

33. If a company or person assessed under Part II or Part IV ceases to carry on the trade or business in respect whereof the assessment was made, or if any such person dies or becomes insolvent before the end of the year for which the assessment was made, or if any such company or person is, from any other specific cause, deprived of or loses the income on which the assess-

Amendment
of assess-
ment.

(Chapter VI.—Supplemental Provisions. Secs. 34-38.)

ment was made, then the company or person or its or his representative in interest may apply to the Collector during or within three months after the end of the year, and the Collector, on proof to his satisfaction of any such cause as aforesaid, shall amend the assessment as the case may require, and refund such sum, if any, as has been overpaid.

Penalties.

Failure to
make pay-
ments or
deliver
returns or
statements.

34. (1) If a person fails—

- (a) to deduct and pay any tax as required by section 8, sub-section (1), or section 13, sub-section (1), or
- (b) to deliver or cause to be delivered to the Collector in due time the return or statement mentioned in section 10 or section 11, or
- (c) to produce, or cause to be produced, on or before the date mentioned in a notice under section 12, such accounts as are referred to in the notice,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

(2) The Commissioner of the division may remit wholly or in part any fine imposed under this section.

False state-
ment in
declaration.

35. If a person makes a statement in a declaration mentioned in section 18, sub-section (2), which is false, and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code.

XLV of 1860.

Prosecution
to be at
instance of
Collector.

36. A person shall not be proceeded against for an offence under section 34 or section 35, except at the instance of the Collector.

Sections 193
and 228 of
Penal Code
to apply to
proceedings.

37. Any proceeding under section 12, or Chapter IV, of this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code.

XLV of 1860.

Power to make Rules.

Power to
make rules.

38. (1) The Governor General in Council may make rules consistent with this Act for ascertaining and determining income liable to assessment, for preventing the disclosure of particulars contained in documents delivered or produced with respect to assessments under Part IV, and generally for carrying out the purposes of this Act, and may delegate to a Local Government the power to make such rules so far as regards the territories subject to that Government.

(2) In making a rule for preventing the disclosure of any particulars referred to in sub-section (1), the Governor General in Council may direct that

(Chapter VI.—Supplemental Provisions. Secs. 39-44.)

a public servant committing a breach of the rule shall be deemed to have committed an offence under section 166 of the Indian Penal Code.

XIV of 1860.

(3) But a person committing any such offence shall not be liable to be prosecuted therefor without the previous sanction of the Local Government.

(4) Rules made under this section shall be published in the official Gazette.

Miscellaneous.

39. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

Bar of suits in Civil Court.

40. All or any of the powers and duties conferred and imposed by this Act on a Collector or on a Commissioner of division may be exercised and performed by such other officer or person as the Local Government appoints in this behalf.

Exercise of powers of Collector and Commissioner.

41. An officer or person exercising all or any of the powers of a Collector under this Act may, by notice, require any person to furnish a list, in the prescribed form, containing, to the best of his belief,—

Obligation to furnish information respecting lodgers and employés.

(a) the name of every inmate or lodger resident in any house used by him as a dwelling-house or let by him in lodgings ;

(b) the name of every other person receiving salary or emoluments amounting to forty-one rupees ten annas and eight pies per mensem, or five hundred rupees per annum, or upwards, employed in his service, whether resident in any such house as aforesaid or not ; and

(c) the place of residence of such of those persons as are not resident in any such house, and of any inmate or lodger in any such house who has a place of residence elsewhere at which he is liable under this Act to be assessed, and who desires to be assessed at that place.

42. An officer or person exercising all or any of the powers aforesaid may, by notice, require any person whom he has reason to believe to be a trustee, guardian, curator, committee or agent to deliver or cause to be delivered a statement of the names of the persons for or of whom he is trustee, guardian, curator, committee or agent.

Trustees and agents to furnish information as to beneficiaries and principals.

43. An officer or person exercising all or any of the said powers may, by notice, require a trustee, guardian, curator, committee or agent, or a receiver or manager appointed by any Court in India, or a Court of Wards, Administrator General or Official Trustee, to furnish such returns of income liable to assessment under Part IV as may be prescribed.

Trustees, &c., to furnish information as to income.

44. An officer or person exercising all or any of the said powers may, at the instance of any person respecting whose assessment or the amount

Obligation to furnish other information.

(Chapter VI. —Supplemental Provisions. Secs. 45-47.)

thereof any doubt exists, require any person to furnish such information as he deems to be necessary for the purpose of ascertaining facts relevant to the assessment or its amount.

Sections 176 and 177 of Penal Code to apply to requisitions for information.

45. A person required to furnish any information under section 41, section 42, section 43 or section 44 shall be legally bound to furnish the same in such manner and within such time as may be specified in the requisition for the information.

Service of notices.

46. (1) A notice under this Act may be served on the person therein named either by a prepaid letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866, or by the delivery or tender to him of a copy of the notice. XIV of 1866.

(2) If a notice is served by registered letter, it shall be presumed to have been served at the time when the letter would be delivered in the ordinary course of post, and proof that the letter was properly addressed and put into the post shall be sufficient to raise the presumption that the notice was duly served at that time.

(3) If the notice is to be served otherwise than by registered letter, the service shall, whenever it may be practicable, be on the person named in the notice, or, in the case of a firm, on some member thereof, or, in the case of a Hindu undivided family, on the manager of the joint estate of the family :

(4) But when the person, member or manager cannot be found, the service may be made on any adult male member of his family residing with him ; and, if no such adult male member can be found, the serving-officer shall fix the copy of the notice on the outer door of the house in which the person, firm or family therein named ordinarily resides or carries on business.

Power to declare principal place of business or residence.

47. (1) When a company or firm has several places of business in territories subject to different Local Governments, the Governor General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be the principal place of business.

(2) When a company or firm has several places of business in the territories subject to a single Local Government, that Government may declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

(3) When a person has several places of residence in territories subject to different Local Governments, the Governor General in Council may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(4) When a person has several places of residence in the territories subject

(Chapter VI.—Supplemental Provisions. Secs. 48-50. The First Schedule —
Enactments Repealed.)

to a single Local Government, that Government may declare which of those places shall, for the purposes of this Act, be deemed to be his residence.

(5) The powers given by this section may be delegated to, and exercised by, such officers as the Governor General in Council or the Local Government, as the case may be, appoints in this behalf.

48. Where a person is in respect of any period liable to the tax under this Act he shall not in respect of that period be assessed to the pandhari-tax levied in the Central Provinces under Act XIV of 1867, or to the capitation-tax, or the land-rate in lieu thereof, levied in Lower* Burma under the Burma Land and Revenue Act, 1876.

Saving in favour of payers of pandhari and capitation taxes.

II of 1876.

49. Every person deducting, retaining or paying any tax in pursuance of this Act or of any arrangement under section 9, sub-section (2), in respect of income belonging to another person, is hereby indemnified for the deduction, retention or payment thereof.

Indemnity.

50. All powers conferred by, or conferable under, this Act may be exercised from time to time as occasion requires.

Powers exercisable from time to time.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

| Number and year. | Short title. | Extent of repeal. |
|----------------------|--|-----------------------------------|
| Act No. II of 1878 . | The Northern India License Act, 1878 . | So much as has not been repealed. |
| Act No. VI of 1880 . | The Indian License Acts Amendment Act, 1880. | The whole. |

ACTS OF THE GOVERNOR OF FORT ST. GEORGE IN COUNCIL.

| Number and year. | Short title. | Extent of repeal. |
|-----------------------|--|-----------------------------------|
| Act No. III of 1878 . | The Madras License Act, 1878 . . . | So much as has not been repealed. |
| Act No. III of 1880 . | An Act to amend Madras Act III of 1878 as amended by Act VI of 1880. | The whole. |

* See Act XX of 1886, s. 4.

(*The First Schedule.—Enactments Repealed. The Second Schedule.—Sources of Income and Rates of Tax.*)

THE FIRST SCHEDULE—*continued.*

ACT OF THE GOVERNOR OF BOMBAY IN COUNCIL.

| Number and year. | Short title. | Extent of repeal. |
|-----------------------|----------------------------------|-----------------------------------|
| Act No. III of 1878 . | The Bombay License Act, 1878 . . | So much as has not been repealed. |

ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

| Number and year | Short title. | Extent of repeal. |
|----------------------|----------------------------------|-------------------|
| Act No. II of 1880 . | The Bengal License Act, 1880 . . | The whole. |

THE SECOND SCHEDULE.

SOURCES OF INCOME AND RATES OF TAX.

(*See section 4.*)

| FIRST COLUMN. | SECOND COLUMN. |
|-------------------|----------------|
| Source of Income. | Rate of Tax. |

PART I.

SALARIES AND PENSIONS.

1. Any salary, annuity, pension or gratuity paid in British India to or on behalf of any person residing in British India or serving on board a ship plying to or from British Indian ports, whether on account of himself or another person.

2 Any salary, annuity, pension or gratuity paid by the Government, or by a local authority established in the exercise of the powers of the Governor General in Council in that behalf, to or on behalf of a British subject within the dominions of a Prince or State in India in alliance with Her Majesty.

(a) If the income amounts to Rs. 2,000 per annum, or Rs. 166-10-8 per mensem, or upwards—five pies in the rupee.

(b) If the income is less than Rs. 2,000 per annum, or Rs. 166-10-8 per mensem—four pies in the rupee.

(The Second Schedule.—Sources of Income and Rates of Tax.)

THE SECOND SCHEDULE—continued.

| FIRST COLUMN. | SECOND COLUMN. |
|-------------------|----------------|
| Source of Income. | Rate of Tax. |

PART II.

PROFITS OF COMPANIES.

Profits of a company .

Five pies in the rupee on the whole of the nett profits made in British India by the company during the year ending on the day on which the company's accounts have been last made up, or, if the company's accounts have not been made up within the year ending on the thirty-first day of March in the year immediately preceding that for which the assessment is to be made, then on the whole of the nett profits so made during the year ending on the said thirty-first day of March.

PART III.

INTEREST ON SECURITIES.

Interests becoming due on or after the first day of April, 1886, and payable in British India, on—

(a) promissory notes, debentures, stock or other securities of the Government of India (including securities of the Government of India whereon interest is payable out of British India by draft on any place in British India), or

(b) bonds or debentures charged by the Imperial Parliament on the revenues of India, or

(c) debentures or other securities for money issued by or on behalf of a local authority or company.

Five pies in the rupee on such interest, unless the owner of the security produces a certificate signed by the Collector that his annual income from all sources is less than Rs. 500, in which case no deduction shall be made from the interest, or unless he produces a like certificate that his income from all sources is less than Rs. 2,000, in which case the rate shall be four pies in the rupee.

PART IV.

OTHER SOURCES OF INCOME.

Any source of income not included in Part I, Part II or Part III of this schedule.

(a) If the annual income is assessed at—
 not less than Rs. 500 but less than Rs. 750, the tax shall be Rs. 10
 " " " 750 " " " 1,000 " " " 15
 " " " 1,000 " " " 1,250 " " " 20
 " " " 1,250 " " " 1,500 " " " 25
 " " " 1,500 " " " 1,750 " " " 30
 " " " 1,750 " " " 2,000 " " " 35
 " " " " " " " " " 40

(b) If the annual income is assessed at Rs. 2,000 or upwards—five pies in the rupee on the income.

ACT No. IV of 1886.^a*Received the Governor General's assent on the 29th January, 1886.*

An Act to amend section 265 of the Indian Contract Act, 1872.

IX of 1872. WHEREAS it is expedient to amend section 265 of the Indian Contract Act, 1872; It is hereby enacted as follows:—

1. For section 265 of the said Act the following shall be substituted, namely:—

New section substituted for section 265, Indian Contract Act.

“265. Where a partner is entitled to claim a dissolution of partnership, or where a partnership has terminated, the Court may, in the absence of any contract to the contrary, wind up the business of the partnership, provide for the payment of its debts and distribute the surplus according to the shares of the partners respectively.”

Winding up by Court on dissolution or after termination.

XIV of 1882. 2. In section 213 of the Code of Civil Procedure the words and figures from and including the word “applications” to the end of the section are hereby repealed.

Repeal of part of section 213, Act XIV, 1882.

THE BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT, 1886.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and commencement.
2. Local extent.
3. Definitions.
4. Saving of local laws.
5. Powers exerciseable from time to time.

^a This Act has been declared in force in the town of Mandalay by Act XX of 1886, s. 6 (1), and s. 1 of the Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

CHAPTER II.

GENERAL REGISTRY OFFICES OF BIRTHS, DEATHS AND MARRIAGES.

SECTIONS.

6. Establishment of general registry offices and appointment of Registrars General.
7. Indexes to be kept at general registry office.
8. Indexes to be open to inspection.
9. Copies of entries to be admissible in evidence.
10. Superintendence of Registrars by Registrar General.

CHAPTER III.

REGISTRATION OF BIRTHS AND DEATHS.

A.—Application of this Chapter.

11. Persons whose births and deaths are registrable.

B.—Registration Establishment.

12. Power for Local Government to appoint Registrars for its territories.
13. Power for Governor General in Council to appoint Registrars for Native States.
14. Registrar to be deemed a public servant.
15. Power to remove Registrars.
16. Office and attendance of Registrar.
17. Absence of Registrar or vacancy in his office.
18. Register books to be supplied, and preservation of records to be provided for.

C.—Mode of Registration.

19. Duty of Registrar to register births and deaths of which notice is given.
20. Persons authorized to give notice of birth.
21. Persons authorized to give notice of death.
22. Entry of birth or death to be signed by person giving notice.
23. Grant of certificate of registration of birth or death.
24. Duty of Registrars as to sending certified copies of entries in register books to Registrar General.
25. Searches and copies of entries in register books.
26. Exceptional provision for registration of certain births and deaths.

D.—Penalty for False Information.

27. Penalty for wilfully giving false information.

E.—Correction of Errors.

28. Correction of entry in register of births or deaths.

CHAPTER IV.

AMENDMENT OF MARRIAGE ACTS.

SECTIONS.

29. Addition of new section after section 13, Act III of 1872.
30. Amendment of the Indian Christian Marriage Act, 1872.
31. Addition of new section after section 8 of the Parsi Marriage and Divorce Act, 1865.

CHAPTER V.

SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS.

32. Permission to persons having custody of certain records to send them within one year to Registrar General.
33. Appointment of Commissioners to examine registers.
34. Duties of Commissioners.
35. Searches of lists prepared by Commissioners and grant of certified copies of entries.

CHAPTER VI.

RULES.

36. Power for Governor General in Council to make rules.
37. Procedure for making and publication of rules.

ACT No. VI OF 1836.^a

Received the Governor General's assent on the 8th March, 1886.

An Act to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes.

WHEREAS it is expedient to provide for the voluntary registration of births and deaths among certain classes of persons, for the more effectual registration of those births and deaths and of the marriages registered under Act III of 1872 or the Indian Christian Marriage Act, 1872, and of certain marriages registered under the Parsi Marriage and Divorce Act, 1865, and for the

XV of 1872.

XV of 1865.

^a This Act has been extended to Upper Burma (except the Shan States) under s. 5 of the Scheduled Districts Act, 1874—see Burma Gazette, 17th November, 1888, Pt. I, p. 544, and Gazette of India, 24th idem, Pt. I, p. 528.

(Chapter I.—Preliminary. Secs. 1-5.)

establishment of general registry offices for keeping registers of those births, deaths and marriages ;

And whereas it is also expedient to provide for the authentication and custody of certain existing registers made otherwise than in the performance of a duty specially enjoined by the law of the country in which the registers were kept, and to declare that copies of the entries in those registers shall be admissible in evidence ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title
and com-
mencement.

1. (1) This Act may be called the Births, Deaths and Marriages Registration Act, 1886 ; and

(2) ^aIt shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, directs.

(3) Any power conferred by this Act to make rules or to issue orders may be exercised at any time after the passing of this Act ; but a rule or order so made or issued shall not take effect until the Act comes into force.

Local extent.

2. This Act extends to the whole of British India, and applies also, within the dominions of Princes and States of India in alliance with Her Majesty, to British subjects in those dominions.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

“sign” includes mark, when the person making the mark is unable to write his name :

“prescribed” means prescribed by a rule made by the Governor General in Council under this Act : and

“Registrar of Births and Deaths” means a Registrar of Births and Deaths appointed under this Act.

Saving of
local laws.

4. Nothing in this Act, or in any rule made under this Act, shall affect any law heretofore or hereafter passed providing for the registration of births and deaths within particular local areas.

Powers
exercisable
from time to
time.

5. All powers conferred by this Act may be exercised from time to time as occasion requires.

^a The Act came into force on the 1st October, 1888—see Gazette of India, 21st July, 1888, Pt. I, p. 336.

CHAPTER II.

GENERAL REGISTRY OFFICES OF BIRTHS, DEATHS AND MARRIAGES.

6. (1) Each Local Government—

XV of 1872. (a) shall establish a general registry office for keeping such certified copies of registers of births and deaths registered under this Act, or marriages registered under Act III of 1872 (*to provide a form of marriage in certain cases*) or the Indian Christian Marriage Act, 1872, or, beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Bombay, under the Parsi Marriage and Divorce Act, 1865, as may be sent to it under this Act, or under any of the three last-mentioned Acts, as amended by this Act; and

Establishment of general registry offices and appointment of Registrars General.

XV of 1865.

(b) may appoint to the charge of that office an officer to be called the Registrar General of Births, Deaths and Marriages, for the territories under its administration :

(2) Provided that the Governor of Bombay in Council may, with the previous sanction of the Governor General in Council, establish two general registry offices and appoint two Registrars General of Births, Deaths and Marriages for the territories under his administration ; one of such general registry offices and of such Registrars General being established and appointed for Sindh and the other for the other territories under the administration of the Governor of Bombay in Council.

XV of 1872. 7. Each Registrar General of Births, Deaths and Marriages shall cause indexes of all the certified copies of registers sent to his office under this Act, or under Act III of 1872, the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, as amended by this Act, to be made and kept in his office in the prescribed form.

Indexes to be kept at general registry office.

XV of 1865.

8. Subject to the payment of the prescribed fees, the indexes so made shall be at all reasonable times open to inspection by any person applying to inspect them, and copies of entries in the certified copies of the registers to which the indexes relate shall be given to all persons applying for them.

Indexes to be open to inspection.

9. A copy of an entry given under the last foregoing section shall be certified by the Registrar General of Births, Deaths and Marriages, or by an officer authorized in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, death or marriage to which the entry relates.

Copies of entries to be admissible in evidence.

10. Each Registrar General of Births, Deaths and Marriages shall exercise

Superintendence of Re-

(Chapter III.—Registration of Births and Deaths. Secs. 16-19.)

to the Local Government or to the Governor General in Council, as the case may be, his intention to do so, and, on his resignation being accepted by the Local Government or the Governor General in Council, he shall be deemed to have vacated his office.

16. (1) Every Registrar of Births and Deaths shall have an office in the local area, or within the part of the territories or dominions, for which he is appointed.

Office and attendance of Registrar.

(2) Every Registrar of Births and Deaths to whom the Local Government may direct this sub-section to apply shall attend at his office for the purpose of registering births and deaths on such days and at such hours as the Registrar General of Births, Deaths and Marriages may direct, and shall cause to be placed in some conspicuous place on or near the outer door of his office his name, with the addition of Registrar of Births and Deaths for the local area or class for which he is appointed, and the days and hours of his attendance.

17. (1) When any Registrar of Births and Deaths to whom the Local Government may direct this section to apply, not being a Registrar of Births and Deaths for a local area in the town of Calcutta, Madras or Bombay, is absent, or when his office is temporarily vacant, any person whom the Registrar General of Births, Deaths and Marriages appoints in this behalf, or, in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, or such other officer as the Local Government appoints in this behalf, shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

Absence of Registrar or vacancy in his office.

(2) When any such Registrar of Births and Deaths for a local area in the town of Calcutta, Madras or Bombay is absent, or when his office is temporarily vacant, any person whom the Registrar General of Births, Deaths and Marriages appoints in this behalf shall be the Registrar of Births and Deaths during such absence or until the Local Government fills the vacancy.

(3) The Registrar General of Births, Deaths and Marriages shall report to the Local Government all appointments made by him under this section.

18. The Local Government shall supply every Registrar of Births and Deaths with a sufficient number of register books of births and of register books of deaths, and shall make suitable provision for the preservation of the records connected with the registration of births and deaths.

Register books to be supplied and preservation of records to be provided for.

C.—Mode of Registration.

19. Every Registrar of Births and Deaths, on receipt of notice of a birth or death within the local area or among the class for which he is appointed, shall,

Duty of Registrar to register

(Chapter III.—Registration of Births and Deaths. Secs. 20-22.)

births and
deaths of
which notice
is given.

if the notice is given within the prescribed time and in the prescribed mode by a person authorized by this Act to give the notice, forthwith make an entry of the birth or death in the proper register book :

Provided that—

- (a) if he has reason to believe the notice to be in any respect false, he may refuse to register the birth or death until he receives an order from the Judge of the District Court directing him to make the entry and prescribing the manner in which the entry is to be made ; and
- (b) he shall not enter in the register the name of any person as father of an illegitimate child, unless at the request of the mother and of the person acknowledging himself to be the father of the child.

Persons
authorized
to give notice
of birth.

20. Any of the following persons may give notice of a birth, namely :—

- (a) the father or mother of the child ;
- (b) any person present at the birth ;
- (c) any person occupying, at the time of the birth, any part of the house wherein the child was born and having knowledge of the child having been born in the house ;
- (d) any medical practitioner in attendance after the birth and having personal knowledge of the birth having occurred ;
- (e) any person having charge of the child.

Persons
authorized
to give notice
of death.

21. Any of the following persons may give notice of a death, namely :—

- (a) any relative of the deceased having knowledge of any of the particulars required to be registered concerning the death ;
- (b) any person present at the death ;
- (c) any person occupying, at the time of the death, any part of the house wherein the death occurred and having knowledge of the deceased having died in the house ;
- (d) any person in attendance during the last illness of the deceased ;
- (e) any person who has seen the body of the deceased after death.

Entry of
birth or
death to be
signed by
person giving
notice.

22. (1) When an entry of a birth or death has been made by the Registrar of Births and Deaths under section 19, the person giving notice of the birth or death must sign the entry in the register in the presence of the Registrar.

(2) Until the entry has been so signed, the birth or death shall not be deemed to be registered under this Act.

(3) When the birth of an illegitimate child is registered, and the mother and the person acknowledging himself to be the father of the child jointly request that that person may be registered as the father, the mother and that person must both sign the entry in the register in the presence of the Registrar.

(Chapter III.—Registration of Births and Deaths. Secs. 23-26.)

23. The Registrar of Births and Deaths shall, on application made at the time of registering any birth or death by the person giving notice of the birth or death, and on payment by him of the prescribed fee, give to the applicant a certificate in the prescribed form, signed by the Registrar, of having registered the birth or death.

Grant of certificate of registration of birth or death.

24. (1) Every Registrar of Births and Deaths in British India shall send to the Registrar General of Births, Deaths and Marriages for the territories within which the local area or class for which he is appointed is situate or resides, at the prescribed intervals, a true copy certified by him, in the prescribed form, of all the entries of births and deaths in the register book kept by him since the last of those intervals :

Duty of Registrars as to sending certified copies of entries in register books to Registrar General.

Provided that in the case of Registrars of Births and Deaths who are clergymen of the Churches of England, Rome and Scotland, the Registrar may, if so directed by his ecclesiastical superior, send the certified copies in the first instance to that superior, who shall send them to the proper Registrar General of Births, Deaths and Marriages.

In this sub-section "Church of England" and "Church of Scotland" mean the Church of England and the Church of Scotland as by law established respectively; and "Church of Rome" means the Church which regards the Pope of Rome as its spiritual head.

(2) The provisions of sub-section (1) shall apply to every Registrar of Births and Deaths in the dominions of any Prince or State in India in alliance with Her Majesty, with this modification that the certified copies referred to in that sub-section shall be sent to such one of the Registrars General of Births, Deaths and Marriages as the Governor General in Council, by notification in the Gazette of India, appoints in this behalf.

25. (1) Every Registrar of Births and Deaths shall, on payment of the prescribed fees, at all reasonable times, allow searches to be made in the register books kept by him, and give a copy of any entry in the same.

Searches and copies of entries in register books.

(2) Every copy of an entry in a register book given under this section shall be certified by the Registrar of Births and Deaths, and shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates.

26. Notwithstanding anything in section 19, the Governor General in Council may make rules authorizing Registrars of Births and Deaths, on conditions and in circumstances to be specified in the rules, to register births and deaths occurring outside the local areas or classes for which they are appointed.

Exceptional provision for registration of certain births and deaths.

(Chapter III.—Registration of Births and Deaths. Secs. 27-28. Chapter IV.
—Amendment of Marriage Acts. Secs. 29-30.)

D.—Penalty for False Information.

Penalty for wilfully giving false information.

27. If any person wilfully makes, or causes to be made, for the purpose of being inserted in any register of births or deaths, any false statement in connection with any notice of a birth or death under this Act, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

E.—Correction of Errors.

Correction of entry in register of births or deaths.

28. (1) If it is proved to the satisfaction of a Registrar of Births and Deaths that any entry of a birth or death in any register kept by him under this Act is erroneous in form or substance, he may, subject to such rules as may be made by the Governor General in Council with respect to the conditions and circumstances on and in which errors may be corrected, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry and add thereto the date of the correction.

(2) If a certified copy of the entry has already been sent to the Registrar General of Births, Deaths and Marriages, the Registrar of Births and Deaths shall make and send a separate certified copy of the original erroneous entry and of the marginal correction therein made.

CHAPTER IV.

AMENDMENT OF MARRIAGE ACTS.

Addition of new section after section 13, Act III of 1872.

29. After section 13 of Act III of 1872 (*to provide a form of marriage in certain cases*) the following section shall be inserted, namely:—

Transmission of certified copies of entries in marriage-certificate book to the Registrar General of Births, Deaths and Marriages.

“13A. The Registrar shall send to the Registrar General of Births, Deaths and Marriages for the territories within which his district is situate, at such intervals as the Governor General in Council, from time to time, directs, a true copy certified by him, in such form as the Governor General in Council, from time to time, prescribes, of all entries made by him in the said marriage-certificate book since the last of such intervals.”

Amendment of the Indian Christian Marriage Act, 1872.

30. In the Indian Christian Marriage Act, 1872, the following amendments shall be made, namely:—

- (a) at the end of section 3, the words “Registrar General of Births, Deaths and Marriages’ means a Registrar General of Births, Deaths

XV of 1872.

(Chapter IV.—*Amendment of Marriage Acts.* Sec. 31. Chapter V.—*Special Provisions as to certain existing Registers.* Sec. 32.)

VI of 1886.

and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886," shall be added;

(b) for the words "Secretary to the Local Government", wherever they occur, and for the words "Secretary to a Local Government" in section 79, the words "Registrar General of Births, Deaths and Marriages" shall be substituted;

(c) for the words "at such places as the Local Government directs" in section 62 the words "in the office of the Registrar General of Births, Deaths and Marriages for the territories of the Local Government by which the person who keeps the register book was licensed" shall be substituted; and

(d) in section 81, after the words "Registrar General of Births, Deaths and Marriages" the words "in England" shall be added.

XV of 1865.

31. After section 8 of the Parsi Marriage and Divorce Act, 1865, the following section shall be inserted, namely:—

Addition of new section after section 8 of the Parsi Marriage and Divorce Act, 1865.

"8A. Every Registrar, except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay, shall, at such intervals as the Governor General in Council from time to time directs, send to the Registrar General of Births, Deaths and Marriages for the territories administered by the Local Government by which he was appointed a true copy certified by him, in such form as the Governor General, from time to time, prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals."

Transmission of certified copies of certificates in marriage-register to Registrar General of Births, Deaths and Marriages.

CHAPTER V.

SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS.

32. If any person in British India, or in the dominions of any Prince or State in India in alliance with Her Majesty, has for the time being the custody of any register or record of birth, baptism, naming, dedication, death or burial of any persons of the classes referred to in section 11, sub-section (1), or of any register or record of marriage of any persons of the classes to which Act III of 1872 or the Indian Christian Marriage Act, 1872, or the Parsi Marriage and Divorce Act, 1865, applies, and if such register or record has been made otherwise than in performance of a duty specially enjoined by the law of the country in which the register or record was kept, he may, within

XV of 1872.

XV of 1865.

Permission to persons having custody of certain records to send them within one year to Registrar General.

one year from the date on which this Act comes into force, send the register or record to the office of the Registrar General of Births, Deaths and Marriages for the territories within which he resides, or, if he resides within the dominions of any such Prince or State as aforesaid, to such one of the Registrars General as aforesaid as the Governor General in Council, by notification in the Gazette of India, directs in this behalf.

Appointment
of Commis-
sioners to
examine
registers.

33. (1) The Governor General in Council may appoint so many persons as he thinks fit to be Commissioners for examining the registers or records sent to the Registrar General of Births, Deaths and Marriages under the last foregoing section.

(2) The Commissioners so appointed shall hold office for such period as the Governor General in Council, by the order of appointment, or any subsequent order, directs.

Duties of
Commission-
ers.

34. (1) The Commissioners appointed under the last foregoing section shall enquire into the state, custody and authenticity of every such register or record as may be sent to the Registrar General of Births, Deaths and Marriages under section 32,

and shall deliver to the Registrar General a descriptive list or descriptive lists of all such registers or records, or portions of registers or records, as they find to be accurate and faithful.

(2) The list or lists shall contain the prescribed particulars and refer to the registers or records, or to the portions of the registers or records, in the prescribed manner.

(3) The Commissioners shall also certify in writing, upon some part of every separate book or volume containing any such register or record, or portion of a register or record, as is referred to in any list or lists made by the Commissioners, that it is one of the registers or records, or portions of registers or records, referred to in the said list or lists.

Searches of
lists prepared
by Commis-
sioners and
grant of
certified
copies of
entries.

35. (1) Subject to the payment of the prescribed fees, the descriptive list or lists of registers or records, or portions of registers or records, delivered by the Commissioners to the Registrar General of Births, Deaths and Marriages shall be, at all reasonable times, open to inspection by any person applying to inspect it or them, and copies of entries in those registers or records shall be given to all persons applying for them.

(2) A copy of an entry given under this section shall be certified by the Registrar General of Births, Deaths and Marriages, or by an officer or person authorized in this behalf by the Local Government, and shall be admissible in evidence for the purpose of proving the birth, baptism, naming, dedication, death, burial or marriage to which the entry relates.

CHAPTER VI.

RULES.

36. In addition to any other power to make rules impliedly or expressly conferred by this Act, the Governor General in Council may make rules—

Power for
Governor
General in
Council to
make rules.

- (a) to fix the fees payable under this Act;
- (b) to prescribe the forms required for the purposes of this Act;
- (c) to prescribe the time within which, and the mode in which, persons authorized under this Act to give notice of a birth or death to a Registrar of Births and Deaths must give the notice;
- (d) to prescribe the registers to be kept and the form and manner in which Registrars of Births and Deaths are to register births and deaths under this Act, and the intervals at which they are to send to the Registrar General of Births, Deaths and Marriages true copies of the entries of births and deaths in the registers kept by them;
- (e) to prescribe the particulars which the descriptive list or lists to be prepared by the Commissioners appointed under Chapter V are to contain, and the manner in which they are to refer to the registers or records, or portions of registers or records, to which they relate;
- (f) to prescribe the custody in which those registers or records are to be kept; and
- (g) generally to carry out the purposes of this Act.

37. (1) The Governor General in Council shall, before making rules under this Act, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

Procedure
for making
and publica-
tion of rules.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under this Act shall be published in the Gazette of India, and the publication in the Gazette of India, of a rule purporting to be made under this Act, shall be conclusive evidence that it has been duly made.

ACT No. VII OF 1886.^a*Received the Governor General's assent on the 8th March, 1886.*

An Act to amend the Indian Registration Act, 1877.

WHEREAS it is expedient to amend the Indian Registration Act, 1877, in III of 1877. manner hereinafter appearing; It is hereby enacted as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Indian Registration Act, 1886; and

(2) It shall come into force at once.

Addition to
section 17 of
Act III of
1877.

2. After clause (f) of section 17 of the Indian Registration Act, 1877, the following clause shall be inserted, that is to say:—

“(ff) any debenture issued by any such company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immoveable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immoveable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures, or”.

Addition to
sections 17
and 89, and
amendment
of section 58,
of same Act.

3. (1) After clause (l) of section 17 of the same Act the following clause shall be added, that is to say:—

“(m) orders granting loans under the Agriculturists' Loans Act, 1884, XII of 1884. and instruments for securing the repayment of loans made under that Act.”

(2) In section 58 of the same Act, for the words “or a copy of a certificate under the Land Improvement Act, 1871, sent by the Collector to be registered,” or, where the Land Improvement Loans Act, 1883, is in force, for the words “or a copy of an order under the Land Improvement Loans Act, 1883, sent by the Collector to be registered,” there shall be substituted the following words, namely:—

“or a copy sent to a registering officer under section 89”.

(3) After the second paragraph of section 89 of the same Act the following paragraph shall be added, that is to say:—

“Every officer granting a loan under the Agriculturists' Loans Act, 1884, XII of 1884. shall send a copy of any instrument whereby immoveable property is mortgaged for the purpose of securing the repayment of the loan, and, if any such property is mortgaged for the same purpose in the order granting the loan,

^a This Act has been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2.

a copy also of that order, to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situate, and such registering officer shall file the copy or copies, as the case may be, in his Book No. 1."

4. After clause (m) of section 17 of the same Act as amended by this Act the following clause shall be added, that is to say:—

Further addition to section 17 of same Act.

"(n) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage-money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage".

5. In the second paragraph of section 50 of the same Act, "(ff)" shall be inserted between "(f)" and "(g)", and for the word and letter "and (i)" the letters and word "(l), (m) and (n)" shall be substituted.

Amendment of section 50 of same Act.

6. (1) After clause (d) of section 90 of the same Act the following clause shall be inserted, that is to say:—

Addition to section 90, and amendment of section 91, of same Act.

Bom. Act V of 1879.

"(e) notices given under section 74, or section 76, of the Bombay Land revenue Code, 1879, of relinquishment of occupancy by occupants, or of alienated land by holders of such land."

(2) In section 91, for the word and letter "and (e)" the letters and word "(e) and (e)" shall be substituted.

(3) The said Act shall be construed as if the amendments made in it by this section had been made at the time the Act came into force.

ACT No. X OF 1886.^a

Received the Governor General's assent on the 12th March, 1886.

An Act to amend the Code of Criminal Procedure, 1882, and certain other Acts.

X of 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and certain other Acts; It is hereby enacted as follows:—

Code of Criminal Procedure, 1882.

1. In the last paragraph of section 31 of the Code of Criminal Procedure, 1882, for the words "any sentence of imprisonment for a term exceeding three years" the words "any sentence of imprisonment for a term exceeding four years, and any sentence of transportation," shall be substituted.

Amendment of section 31 of the Code of Criminal Procedure.

^a Ss 1 to 19 and 21 to 25 of this Act have been declared in force in the Sonthal Pergunnahs by Reg. III of 1872, s. 3, as amended by Reg. III of 1886, s. 2; and ss. 21 to 25 in Upper Burma (except the Shan States) by Act XX of 1886, s. 6 (1).

(Secs. 2-9)

Substitution
of new sec-
tion for sec-
tion 34.

Higher
powers of
certain Dis-
trict Magis-
trates.

Addition to
section 55 and
section 56.

Amendment
of sections
88 and 514.

Amendment
of section
110.

Amendment
of section
162

Amendment
of section
173

Amendment
of section
266.

Amendment
of section
269.

2. For section 34 of the same Code the following shall be substituted, namely :—

“ 34. The Court of a District Magistrate, specially empowered under section 30, may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding seven years or of imprisonment for a term exceeding seven years ; but any sentence of imprisonment for a term exceeding four years, and any sentence of transportation, shall be subject to confirmation by the Sessions Judge.”

3. After section 55 of the same Code, and after section 56 thereof, the following shall be added, namely :—

“ This section applies to the police in the towns of Calcutta and Bombay.”

4. In sections 88 and 514 of the same Code, after the words “ District Magistrate ” the words “ or Chief Presidency Magistrate ” shall be inserted.

5. In section 110 of the same Code, for the words “ Subdivisional Magistrate or Magistrate of the first class specially empowered in this behalf by the Local Government ” the words “ or Subdivisional Magistrate, or a Magistrate of the first class specially empowered in this behalf by the Local Government ” shall be substituted.

6. In section 162 of the same Code the word “ shall ” shall be inserted before the words “ be used ”.

7. In section 173 of the same Code the following shall be substituted for the second paragraph, namely :—

“ Where a superior officer of police has been appointed under section 158, the report shall, in any cases in which the Local Government by general or special order so directs, be submitted through that officer, and he may, pending the orders of the Magistrate, direct the officer in charge of the police-station to make further investigation.”

8. In section 266 of the same Code, for the word and figures “ section 307 ” the words and figures “ sections 276 and 307 ” shall be substituted.

9. For the second paragraph of section 269 of the same Code the following shall be substituted, namely :—

“ When the accused is charged at the same trial with several offences of which some are and some are not triable by jury, he shall be tried by jury for such of those offences as are triable by jury, and by the Court of Session, with the aid of the jurors as assessors, for such of them as are not triable by jury.”

(Secs. 10-12.)

10. For section 398 of the same Code the following shall be substituted, namely :—

Substitution of new section for section 398.

“398. (1) Nothing in section 396 or section 397 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

Provisions supplemental to sections 35, 396 and 397.

“(2) When an award of imprisonment in default of payment of a fine is annexed to a substantive sentence of imprisonment, or to a sentence of transportation or penal servitude for an offence punishable with imprisonment, and the person undergoing the sentence is, after its execution, to undergo a further substantive sentence, or further substantive sentences, of imprisonment, transportation or penal servitude, effect shall not be given to the award of imprisonment in default of payment of the fine until the person has undergone the further sentence or sentences.”

11. (1) For the third paragraph of section 401 of the same Code the following shall be substituted, namely :—

Amendment of section 401.

“If any condition on which a sentence has been suspended or remitted is, in the opinion of the Governor General in Council or of the Local Government, as the case may be, not fulfilled, the Governor General in Council or the Local Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence.”

(2) After the third paragraph of the same section the following shall be inserted, namely :—

“The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.”

12. After section 475 of the same Code the following sections shall be inserted, namely :—

New sections to follow section 475.

“475A. The Governor General in Council may direct that any person whom the Local Government has ordered under this chapter to be confined in a lunatic asylum, jail or other place of safe custody, shall be removed from the place where he is confined to any lunatic asylum, jail or other place of safe custody in British India.

Power of Governor General in Council to order criminal lunatics confined by order of Local Government to be removed from one province to another.

(Secs. 13-16.)

Power of
Local Gov-
ernment to
relieve In-
spector Gen-
eral of cer-
tain func-
tions.
Amendment
of section
495.

"475B. The Local Government may empower the officer in charge of the jail in which a person is confined under the provisions of section 466 or section 471 to discharge all or any of the functions of the Inspector General of Prisons under section 472, section 473 or section 474."

13. (1) For the first sentence of section 495 of the same Code the following shall be substituted, namely :—

"Any Magistrate inquiring into or trying any case may permit the prosecution to be conducted by any person other than an officer of police below a rank to be prescribed by the Local Government in this behalf with the previous sanction of the Governor General in Council."

(2) After the last sentence of the same section the following shall be added, namely :—

"An officer of police shall not be permitted to conduct the prosecution if he has taken any part in the investigation into the offence with respect to which the accused is being prosecuted."

Amendment
of section
510.

14. In section 510 of the same Code, for the word "the" before the words "Chemical Examiner" where those words first occur, the word "any" shall be substituted.

New section
to follow
section 541.

15. After section 541 of the same Code the following shall be inserted, namely :—

Removal to
criminal jail
of accused
or convicted
persons who
are in con-
finement in
civil jail, and
their return to
the civil jail.

"541A. (1) If any person liable to be imprisoned or committed to custody under this Code is in confinement in a civil jail, the Court or Magistrate ordering the imprisonment or committal may direct that the person be removed to a criminal jail.

"(2) When a person is removed to a criminal jail under sub-section (1), he shall, on being released therefrom, be sent back to the civil jail, unless either—

"(a) three years have elapsed since he was removed to the criminal jail, in which case he shall be deemed to have been discharged from the civil jail under section 342 of the Code of Civil Procedure; or

XIV of 1882.

"(b) the Court which ordered his imprisonment in the civil jail has certified to the officer in charge of the criminal jail that he is entitled to be discharged under section 341 of the Code of Civil Procedure."

Addition of
new section
after section
558.

Officers con-
cerned in
sales not to
purchase or
bid for pro-
perty.

16. After section 558 of the same Code the following section shall be added, namely :—

"559. A public servant having any duty to perform in connection with the sale of any property under this Code shall not purchase or bid for the property."

(Secs. 17-19.)

17. In Schedule II of the same Code, between the two lines of entries XLV of 1860. against section 211 of the Indian Penal Code the following shall be inserted, namely :—

Correction of omission in Schedule II.

| Column 2. | Column 3. | Column 4. | Column 5. | Column 6. | Column 7. | Column 8. |
|--|-----------|-----------|-----------|-----------|--|--|
| "If offence charged be punishable with imprisonment for seven years. | Ditto . | Ditto . | Ditto . | Ditto . | Imprisonment of either description for seven years and fine. | Court of Session, Presidency Magistrate or Magistrate of the first class." |

18. In the same schedule, for section 225A and the line of entries against that section the following shall be substituted, namely :—

Further amendment of Schedule II.

| Column 1. | Column 2. | Column 3. | Column 4. | Column 5. | Column 6. | Column 7. | Column 8. |
|-----------|--|-----------------------------------|---------------|-----------|-----------|---|---|
| "225A. | Omission to apprehend, or sufferance of escape, on part of public servant in cases not otherwise provided for— (a) in case of intentional omission or sufferance; (b) in case of negligent omission or sufferance. | Shall not arrest without warrant. | Ditto . | Bailable | Ditto | Imprisonment of either description for three years, or fine, or both. | Court of Session, Presidency Magistrate or Magistrate of the first class. |
| | | Ditto . | S u m - mons. | Ditto . | Ditto | Simple imprisonment for two years or fine, or both. | Presidency Magistrate or Magistrate of the first or second class. |
| "225B | Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for. | May arrest without warrant. | Warrant | Ditto . | Ditto . | Imprisonment of either description for six months or fine, or both. | Ditto." do. |

19. In the part of Schedule III of the same Code entitled " IV.—Ordinary Powers of a Subdivisional Magistrate", the following shall be inserted after the second article, namely :—

Correction of omission in Schedule III.

"(2A) Power to require security for good behaviour, section 110."

(Secs. 20-24.)

*Bombay District Police Act, 1867.*Amendment
of Bombay
District
Police Act.

20. The last nine words of section 23 of the Bombay District Police Act, Bom. VII of 1867, are hereby repealed.

*Indian Penal Code.*Amendment
of sections
40 and 64
of the Indian
Penal Code.

21. (1) In the second clause of section 40 of the Indian Penal Code, between the figures "66" and "71" the figures "67" shall be inserted. XLV of 1860

(2) In the second clause of section 64 of the same Code, after the word "punishable" the words "with imprisonment or fine, or" shall be inserted.

Amendment
of section 75
the Indian
Penal Code.

22. In section 75 of the same Code, for the words "or to double the amount of punishment" to the end of the section, the following shall be substituted, namely :—

"or to imprisonment of either description for a term which may extend to ten years."

Addition to
section 216
of the Indian
Penal Code.

23. After the first paragraph of section 216 of the same Code the following shall be inserted, namely :—

"'Offence' in this section includes also any act or omission of which a person is alleged to have been guilty out of British India which, if he had been guilty of it in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India; and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India."

44 & 45 Vict
cap 69.Substitution
of new sec-
tions for sec-
tion 225A of
the Indian,
Penal Code,
and repeal of
section 651 of
the Code of
Civil Proce-
dure.

24. (1) For section 225A of the same Code the following sections shall be substituted, namely :—

Omission to
apprehend,
or sufferance
of escape, on
part of public
servant in
cases not
otherwise
provided for.

"225A. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 221, section 222 or section 223, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

"(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and

(Sec. 25.)

“(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

“225B. Whoever, in any case not provided for in section 224 or section 225 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”

Resistance or obstruction to lawful apprehension, or escape or rescue, in cases not otherwise provided for.

XIV of 1882. (2) Section 651 of the Code of Civil Procedure is hereby repealed.

Prisoners' Act, 1871.

V of 1871. 25. For sections 30, 31 and 32 of the Prisoners' Act, 1871, the following shall be substituted, namely :—

Substitution of new sections for sections 30, 31 and 32 of the Prisoners' Act.

X of 1882. “30. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for keeping the peace or maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Local Government, or (subject to its orders and under its control) the Inspector General of Prisons, may order his removal during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment within the territories subject to the same Local Government.

Removal from one jail to another in territories under same Local Government.

“31. (1) Whenever it appears to the Local Government that any person detained or imprisoned under any order or sentence of any Magistrate or Court is of unsound mind, that Government, by a warrant setting forth the grounds of belief that the person is of unsound mind, may order his removal to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, there to be kept and treated as the Local Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

Removal of lunatic prisoners.

“(2) When it appears to the Local Government that the prisoner has

become of sound mind, that Government, by a warrant directed to the person having charge of the prisoner, shall, if the prisoner is still liable to be kept in custody, remand him to the prison from which he was removed or to another prison within the territories subject to the same Local Government, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

“(3) The provisions of section 9 of Act XXXVI of 1858 (*relating to Lunatic Asylums*) shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned ; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Magistrate or Court to undergo.

“(4) In any case in which a Local Government is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the territories subject to the same Local Government, the Governor General in Council may order his removal to any lunatic asylum or other place of safe custody in any part of British India ; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed by order of a Local Government shall, so far as they can be made applicable, apply to a prisoner removed by order of the Governor General in Council.

Removal of
prisoners
from terri-
tories under
one Local
Government
to territories
under an-
other.

“32. When any person is, or has been, sentenced to imprisonment by any Court, or, in default of giving security for maintaining good behaviour, has been committed to, or is detained in, prison under section 123 of the Code of Criminal Procedure, 1882, the Governor General in Council may order his re- X of 1882.
moval during the period for which he has been sentenced to imprisonment or the security has been ordered to be given, as the case may be, from the jail or place in which he is confined to any other jail or place of imprisonment in British India.”

THE INDIAN TRAMWAYS ACT, 1886.

CONTENTS.

Preliminary.

SECTIONS.

1. Short title and commencement.
2. Local extent.
3. Definitions.

Orders authorizing the Construction of Tramways.

SECTIONS.

4. Application for and consent necessary to making of order.
5. Consent of local or road authority not necessary in certain cases.
6. Procedure for making order.
7. Contents of order.
8. Further order.
9. Power to authorize joint work by local authorities.
10. Cessation of powers given by an order.

Construction and Maintenance of Tramways.

11. Mode of formation of tramway.
12. Inspection of tramway before opening.
13. Agreement between road-authority and promoter as to repair of road-way.

Traffic on Tramways.

14. Rights of promoters and the public over tramways.
15. Tolls leviable by promoter or lessee.
16. Carriage of dangerous or offensive goods.

Licenses to use Tramways.

17. Grant to third parties of licenses to use tramway in certain events.
18. Licensee to give to promoter or lessee an account of traffic.

Discontinuance of Tramways.

19. Cessation of powers of promoter and lessee on discontinuance of tramway.
20. Powers of road-authority on cessation of powers of promoter.
21. Proceedings in case of insolvency of promoter.

Purchase of Tramways.

22. Future purchase of undertaking by local authority.

Working of Tramways owned by Local Authorities.

23. Lease of, or working of, tramway by local authority.

Rules.

24. Power to make rules.
25. Power to impose penalty by rule.
26. Procedure for making, and publication of, rules.

Offences.

27. Penalty for failure of promoter, lessee or licensee to comply with Act or order.
28. Penalty for obstructing promoter in exercise of his powers.
29. Penalty for interfering with tramway.
30. Penalty for using tramway with carriage having flange-wheels.

SECTIONS.

31. Penalty for evading payment of proper toll.
32. Penalty for taking or sending dangerous or offensive goods without giving notice.
33. Penalty for licensee not giving to promoter or lessee an account of traffic or giving false account.
34. Saving of prosecutions under other laws.

Settlement of Differences.

35. Differences between promoters or lessees and authorities.

Recovery of Tolls.

36. Recovery of moneys due from promoters and, in certain cases, from lessees.
37. Recovery of tolls from licensees.
38. Recovery of tolls from passengers.

Savings.

39. Promoter to have right of user only.
40. Saving of power over roads traversed by tramways.
41. Saving of power of local authority and police to regulate traffic on roads.

Supplemental Provisions.

42. Promoters, lessees and licensees to be responsible for all injuries.
43. Want of funds not a sufficient reason for default.
44. Power to exempt from municipal taxation.
45. Application by local authorities of local funds to tramways.
46. Extension of Act to existing tramways.
47. Prohibition of construction of tramways except under this Act.
48. Transfer of control on exclusion of local area from circle of local authority.
49. Explanation and amendment of section 54 of Railway Act.
50. Powers of Local Government exerciseable from time to time.

ACT No. XI of 1886.

Received the Governor General's assent on the 12th March, 1886.

An Act to facilitate the construction and to regulate the working
of Tramways.

WHEREAS it is expedient to facilitate the construction and to regulate the working of tramways ; It is hereby enacted as follows :—

Preliminary.

1. (1) This Act may be called the Indian Tramways Act, 1886 ; and
- (2) It shall come into force at once,

(Preliminary. Secs. 2-3.)

2. (1) It extends in the first instance to the whole of British India, except the territories administered by the Governor of Fort Saint George in Council, the Governor of Bombay in Council and the Lieutenant-Governor of Bengal. Local extent.

(2) But the Governor of Fort Saint George in Council, the Governor of Bombay in Council or the Lieutenant-Governor of Bengal may, by notification in the official Gazette, extend this Act to the whole or any part of the territories under his administration.*

3. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) “local authority” means a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund :

(2) “road” means the way of a road, street, thoroughfare, passage or place along or across which a tramway authorized under this Act is, or is intended to be, laid, and includes the surface-soil and subsoil of a road, and the footway, berms, drains and ditches of a road, and any bridge, culvert or causeway forming part of a road :

(3) “road-authority”, in relation to a road, means—

(a) if a local authority maintains and repairs the road, then that authority ;

(b) if a local authority does not maintain and repair the road, and the road is neither vested in Her Majesty nor maintained and repaired by the Government, then the person in whom the road is vested ; and

(c) if a local authority does not maintain and repair the road, and the road is vested in Her Majesty or maintained and repaired by the Government, then the Local Government :

(4) “circle”, in relation to a local authority or road-authority, means the area within the control of that authority :

(5) “tramway” means a tramway, or any part of a tramway, or any siding, turnout, connection, line or track belonging to a tramway :

(6) “order” means an order authorizing the construction of a tramway under this Act, and includes a further order substituted for, or amending, extending or varying, that order :

(7) “promoter” means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the

* The Act has been extended to the whole of Bombay, except the city of Bombay, and the town of Karáchi and its suburbs—see Bombay Gazette, 10th November, 1887, Pt. I, p. 899 ; it has also been extended to the city of Madras—see Fort St. George Gazette, 27th August, 1886, Pt. I, p. 750.

(Orders authorizing the Construction of Tramways. Sec. 4.)

rights and liabilities conferred and imposed on the promoter by this Act and by the order and any rules made under this Act as to the construction, maintenance and use of the tramway, have devolved :

(8) "undertaking" includes all moveable and immoveable property of the promoter suitable to and used by him for the purposes of the tramway :

(9) "carriage", in the case of a tramway on which steam-power or any other mechanical power is used, includes an engine worked on the tramway for the purpose of producing that power :

(10) "toll" includes any charge leviable in respect of the use of a tramway :

(11) "lessee" means a person to whom a lease has been granted of the right of user of a tramway and of demanding and taking the authorized tolls :

(12) "District Magistrate" includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area all or any of the functions of a District Magistrate under this Act :

(13) "District Court" means a principal Civil Court of original jurisdiction, and includes a High Court having ordinary original civil jurisdiction :

(14) "Collector" means the chief officer in charge of the revenue-administration of a district, and includes an officer empowered by the Local Government by name or by virtue of his office to discharge within any local area the functions of a Collector under this Act : and

(15) "prescribed" means prescribed by rules made by the Local Government under this Act.

Orders authorizing the Construction of Tramways.

Application for and consent necessary to making of order.

4. (1) The Local Government may make an order authorizing the construction of a tramway in a circle on application made—

(a) by the local authority of the circle with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not itself the road-authority ; or

(b) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not the road-authority :

Provided that, if any part of the proposed tramway is to traverse land which is not included within the limits of a municipality or of a cantonment, the Local Government shall not make the order without the previous sanction of the Governor General in Council.

(2) A local authority shall not make an application for an order or be

(Orders authorizing the Construction of Tramways. Secs. 5-7.)

deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved by the local authority in manner prescribed.

5. When it is proposed to lay a tramway in two or more circles, and a local authority or road-authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Local Government may, nevertheless, make an order authorizing the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit, if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be, that the conditions attached by the authority to its consent ought not to be imposed.

Consent of local or road authority not necessary in certain cases.

6. (1) The Local Government on receiving an application shall consider it, and, if satisfied as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorizing the construction of the tramway.

Procedure for making order.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Local Government on or before a date to be specified in the notice, be received and considered.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Local Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorizing the construction of a tramway shall be published in the official Gazette in English, and in the other prescribed language or languages, if any; and that publication shall be conclusive proof that the order has been made as required by this section.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced and the time within which it shall be completed and opened for public traffic.

Contents of order.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following, among other matters, that is to say:—

(a) a period before the expiration of which the tramway shall not be com-

(Orders authorizing the Construction of Tramways. Sec. 7.)

- menced, and the conditions subject to which the local authority, when it is not itself the promoter, may, within that period, elect to be substituted in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle; and the limits of time within which, and the terms upon which, the local authority may, after the tramway has been constructed, require the promoter to sell to it the undertaking or so much thereof as is within its circle;
- (b) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purposes;
 - (c) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the reinstating of the roads, and the approval of the method and materials by the Local Government or the road-authority before the commencement of the work;
 - (d) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriageway over the bridge is to form part of the tramway or when the tramway is to cross a railway or another tramway on the level;
 - (e) the space which shall ordinarily intervene between the outside of the carriageway on either side of a road whereon the tramway is to be constructed and the nearest rail of the tramway, and the conditions on which a smaller space may be permitted;
 - (f) the gauge of the tramway; the rails to be used, and the mode in which, and the level at which, they shall be laid and maintained; and the adoption and application by the promoter of such improvements in the rails, and in their situation, and in the sub-structure upon which they rest, as the Local Government may from time to time require;
 - (g) the portion of the road or roads traversed by the tramway to be kept in repair by the promoter; the maintenance by the promoter to the satisfaction of the Local Government or the road-authority, or both, of that portion of the road or roads; and the liability of the promoter, on the requisition of the Local Government, from time to time to adopt and apply such improvements in the tramway as the Local Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads;

(Orders authorizing the Construction of Tramways. Sec. 7.)

- (h) the application of material excavated by the promoter in the construction or maintenance of the tramway ;
- (i) the provision of such crossings, passing-places, sidings, junctions and other works, in addition to those specified in or authorized by the order, as may from time to time be necessary or convenient to the efficient working of the tramway ;
- (j) the powers which may from time to time be exercised by the Local Government, the local authority, the road-authority or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway ; the notice (if any) to be given of the intended exercise of those powers ; the manner in which the powers shall be exercised ; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof ;
- (k) the conditions subject to which the promoter may from time to time interfere with, or alter or require the alteration of the position of, drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes or other things as aforesaid ;
- (l) the provision of a temporary tramway in place of a part of a tramway which has been removed, or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid, or by reason of the use of the road being interrupted by floods or other cause ;
- (m) the motive power to be used on the tramway, and the conditions on which steam-power or any other mechanical power may be used ;
- (n) the nature, dimensions, fittings, appliances and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Local Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Local Government, from time to time, to adopt and apply such improvements in the carriages, and in the fittings, appliances and apparatus, as the Local Government may consider necessary or desirable for the safety or convenience of the public ;
- (o) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry ; the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Local Government ; and the regulation of the traffic and of the levy of the tolls ;

(Orders authorizing the Construction of Tramways. Sec. 8.)

- (p) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings and other works as may be necessary for communication between its premises and the tramway;
- (q) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise; and the conditions subject to which the local authority may be the transferee;
- (r) the performance by the Local Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter; and
- (s) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.

(3) The Local Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Land Acquisition Act, 1870, in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter. X of 1870.

(4) The order shall imply the condition—

- (a) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided; and
- (b) in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user and of demanding and taking the authorized tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter in respect of the construction or maintenance of the tramway.

8. (1) The Local Government may, on the application of the promoter, revoke, amend, extend or vary the order by a further order.

(2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.

(3) The Local Government may, in its discretion, either grant or reject the application.

(4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers and authorities asked for in the application, or restriction or

Further
order.

(Orders authorizing the Construction of Tramways. Secs. 9-10.)

condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.

9. (1) Subject to, and in accordance with, the provisions of this Act, the Local Government may, on a joint application, or on two or more separate applications, make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof.

Power to authorize joint work by local authorities.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the tramway, and the form of the order may be adapted to the circumstances of the case.

10. (1) If a promoter authorized by an order to construct a tramway—

Cessation of powers given by an order.

- (a) does not within the time specified in the order substantially commence the construction of the tramway, or
- (b) having commenced the construction, suspends it without a reason sufficient in the opinion of the Local Government to warrant the suspension, or
- (c) does not within the time specified in the order complete the tramway and open it for public traffic,

the following consequences shall ensue :—

- (i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto shall, unless the Local Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised except as to so much of the tramway as is then completed ;
- (ii) as to so much of the tramway as is then completed, the Local Government may either permit, or refuse to permit, the powers given by the order to continue ;
- (iii) if the Local Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Local Government.

(2) A notification published by the Local Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a

(*Construction and Maintenance of Tramways. Secs. 11-13. Traffic on Tramways. Sec. 14.*)

tramway had been suspended without sufficient reason, shall, for the purpose of this section, be conclusive proof of the matter stated therein.

Construction and Maintenance of Tramways.

Mode of
formation of
tramway.

11. A tramway shall be constructed and maintained in the manner provided by the order.

Inspection of
tramway
before
opening.

12. A tramway, or portion or extension of, or addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Local Government has inspected it and certified it to be fit for such traffic

Agreement
between
road-authority
and pro-
moter as to
repair of
roadway.

13. Subject to the provisions of any order for the time being in force with respect to the matters mentioned in section 7, sub-section (2), clause (g), the road-authority and the promoter may from time to time enter into agreement as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

Traffic on Tramways.

Rights of
promoters
and the
public over
tramways.

14. (1) The promoter of a tramway shall, subject to the provisions of sub-section (2) and to the other provisions of this Act and of the order, have the exclusive use of the tramway for carriages with flange-wheels or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway :

Provided that nothing in this Act or in the order or any rule made under this Act shall affect the right of any person authorized to use a tramway or railway to pass across a tramway constructed under this Act with carriages having wheels suitable to run on the rail thereof.

(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway :

Provided—

(a) that this sub-section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter ; and

(b) that the Local Government may by an order authorize the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby.

(Traffic on Tramways. Secs. 15-16. Licenses to use Tramways. Sec. 17.)

15. (1) The promoter or lessee may demand and take, in respect of the tramway, tolls not exceeding the limits specified in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may from time to time be fixed by the promoter or lessee with the previous sanction of the Local Government.

Tolls leviable by promoter or lessee.

(2) A list of all the tolls authorized to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

16. (1) A person shall not be entitled to carry or to require to be carried, on a tramway constructed under this Act, any goods of a dangerous or offensive nature.

Carriage of dangerous or offensive goods.

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage.

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

Licenses to use Tramways.

17. If, at any time after a tramway or part of a tramway has been for three years opened for public traffic in a circle, the local authority of the circle represents in writing to the Local Government that the public is deprived of the full benefit of the tramway or of the part thereof, the Local Government may, if after considering any statement which the promoter or lessee or both may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, grant a license to any person to use the tramway conformably to this Act and to the order and the rules made under this Act, subject to the following provisions, namely:—

Grant to third parties of licenses to use tramway in certain events.

(a) the license shall be for a period not less than one year or more than

(*Licenses to use Tramways. Sec. 18. Discontinuance of Tramways. Sec. 19.*)

three years from the date of the license, but the Local Government may in its discretion renew it ;

- (b) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Local Government, having regard to the cause for granting the license, thinks fit ;
- (c) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run, the tolls to be paid to the promoter or lessee by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages ;
- (d) the licensee and his officers and servants shall permit one person, duly authorized for that purpose by the promoter or lessee, to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey ;
- (e) any provision of this Act, or of the order or rules made under this Act, relating to the functions of a servant of a promoter or lessee shall be construed, so far as may be, as referring to a servant of the licensee ; and
- (f) the Local Government may revoke, alter or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration or modification thereof.

Licensee to give to promoter or lessee an account of traffic.

18. A licensee shall, on demand, give to an officer or servant authorized in that behalf by the promoter or lessee an exact account in writing, signed by the licensee, of the number of passengers, or number or quantity of goods, conveyed by any and every carriage used by him on the tramway.

Discontinuance of Tramways.

Cessation of powers of promoter and lessee on discontinuance of tramway.

19. If it is proved to the satisfaction of the Local Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance, the Local Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end ; and thereupon the said powers shall cease and deter-

(Discontinuance of Tramways. Sec. 20. Insolvency of Promoter. Sec. 21.)

mine, except in so far as they may be purchased by a local authority in manner by this Act provided.

20. (1) Where a notification has been published under section 19, the road-authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in re-instituting the road.

Powers of road-authority on cessation of powers of promoter.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in reinstating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the road-authority may, without any previous notice to the promoter and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in reinstating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of the expenses of the sale, and shall pay over the residue (if any) of the proceeds of the sale to the promoter.

Insolvency of Promoter.

21. (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to work it with advantage to the public, and either of those authorities makes a representation to that effect to the Local Government, the Local Government may, if after considering any statement which the promoter may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided.

Proceedings in case of insolvency of promoter.

(2) Where a notification has been published under sub-section (1), the

(Purchase of Tramways. Sec. 22.)

road-authority may, at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

Purchase of Tramways.

Future purchase of undertaking by local authority.

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Local Government, may—

- (a) within such limits of time as may be specified in this behalf in the order, or
- (b) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or
- (c) within two months after the publication of a notification under section 19 or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority; and thereupon the promoter shall sell the same upon the terms specified in the order, or, if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the undertaking or any compensation for compulsory sale or other consideration whatsoever.

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed.

(3) When a sale has been made under this section, all the rights, powers and authorities of the promoter in respect of the undertaking or part thereof sold, or, where a notification has been published under section 19 or section 21, all the rights, powers and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway had been constructed by it under an order made under this Act.

(4) Subject to, and in accordance with, the preceding provisions of this

*(Working of Tramways owned by Local Authorities. Sec. 23. Rules.
Sec. 24.)*

section, two or more local authorities may jointly purchase an undertaking or so much thereof as is within their circles.

Working of Tramways owned by Local Authorities.

23. (1) When a local authority has under the authority of an order completed a tramway, or has under the provisions of this Act or of an order acquired possession of a tramway, it may, by a lease to be approved by the Local Government, let to any person the right of user of the tramway and of demanding and taking the authorized tolls.

Lease of, or working of, tramway by local authority.

(2) On the determination of a lease the local authority may from time to time let the right for such further term and on such conditions as the Local Government may approve.

(3) Every lease made under this section shall imply a condition of re-entry if at any time after the making thereof it is proved to the satisfaction of the Local Government that the lessee has practically discontinued the working of the tramway leased, or of any part thereof, for the space of one month without a reason sufficient, in the opinion of the Local Government, to warrant the discontinuance.

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed.

(5) If the local authority cannot by means of a lease obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Local Government and for such term as the Local Government directs, place and run carriages upon the tramway, and demand and take the authorized tolls in respect of the use of the carriages.

Rules.

24. (1) In addition to any other power to make rules expressly or by implication conferred by this Act, the Local Government may make rules consistent with this Act—

Power to make rules.

- (a) as to the form in which an application for an order shall be made;
- (b) as to the costs to be paid by an applicant in respect of an order, and the time when, and the place where, those costs shall be paid;
- (c) as to the payment of money or lodgment of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8; the investment of money so paid; the disposal of interest or dividends from time to time accruing due on money or securities

so paid, lodged or invested ; the application of the money or securities or the produce thereof to the discharge of any liability incurred by the promoter ; and the forfeiture, repayment or return of the money or securities ;

- (d) as to the plans and sections of any works to be deposited by applicants for orders or by promoters ;
- (e) for regulating the use of steam-power or any other mechanical power on a tramway ;
- (f) as to any matter specified in section 7, sub-section (2), clauses (c), (d), (e), (j) and (k), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Local Government, been effectually so provided for ;
- (g) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Local Government or as that Government directs, and as to the forms in which those accounts are to be submitted ;
- (h) as to the accidents of which report is to be made to the Local Government or as that Government directs ;
- (i) as to any matter respecting which rules may be made under this section by a local authority or a promoter or lessee ; and,
- (j) generally, as to any other matter or thing in respect of which it may seem to the Local Government to be expedient to make rules for carrying out the purposes of this Act.

(2) A local authority may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made by the Local Government under this Act for regulating—

- (a) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority ;
- (b) the use of animal power on the tramway ;
- (c) the distances at which carriages using the tramway are to be allowed to follow one after the other ;
- (d) the stopping of carriages using the tramway, and the notice to be given to the public of their approach ;
- (e) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted ;
- (f) the traffic on roads along or across which the tramway is laid ;
- (g) the number of passengers which may be carried in any carriage ;

(4) the licensing and control of drivers, conductors and other persons having charge of the carriages of the promoter or lessee or a licensee ; and

(5) generally, the mode of use of the tramway.

(3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Local Government, make rules consistent with this Act and with the order and any rules made under this Act—

(a) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to him ; and

(b) for regulating the travelling in any carriage belonging to him.

(4) The Local Government may cancel any rule made by a local authority or by a promoter or lessee under this section.

25. The authority making any rule under section 24 may direct that a breach of it shall be punishable with fine which may extend—

(a) if the authority making the rule is the Local Government, to two hundred rupees, and

(b) if that authority is a local authority or a promoter or lessee, to twenty rupees ;

and when the breach is a continuing breach, with a further fine which may extend—

(c) if the authority making the rule is the Local Government, to fifty rupees, and

(d) if that authority is a local authority or a promoter or lessee, to five rupees,

for every day after the first during which the breach continues.

26. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Local Government, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

Power to
impose
penalty
by rule.

Procedure for
making, and
publication
of, rules.

(Offences. Secs. 27-29.)

Offences.

Penalty for failure of promoter, lessee or licensee to comply with Act or order.

27. If a promoter—

- (a) constructs or maintains a tramway otherwise than in accordance with the order, or
- (b) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or
- (c) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

or if a promoter, lessee or licensee runs a carriage on a tramway otherwise than in accordance with the order,

he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Local Government or by the local authority or road-authority or by the District Magistrate or, with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed.

Penalty for obstructing promoter in exercise of his powers.

28. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing or maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees.

Penalty for interfering with tramway.

29. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully does any of the following things, namely :—

- (a) interferes with, removes or alters any part of a tramway constructed under this Act, or of the works connected therewith, or
- (b) places or throws upon or across any such tramway any wood, stone, refuse or other thing, or
- (c) does anything in such a manner as to obstruct any carriage using any such tramway, or
- (d) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (a), clause (b) or clause (c),

XLV of 1860.

(Offences. Secs. 30-34.)

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punished with fine which may extend to one hundred rupees.

30. If any person, except under a lease from, or by agreement with, the promoter, or under license from the Local Government granted under this Act, uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees.

Penalty for using tramway with carriage having flange-wheels.

31. (1) If any person travelling or having travelled in a carriage of the promoter or lessee or of a licensee evades or attempts to evade payment of toll, or if any person having paid toll for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional toll for the additional distance or attempts to evade payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid toll to quit the carriage, he shall be punished with fine which may extend to ten rupees.

Penalty for evading payment of proper toll.

(2) When a person commits an offence under this section and refuses on demand of a servant of the promoter, lessee or licensee to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police-station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police-station he shall with the least possible delay be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate if so required.

32. If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees.

Penalty for taking or sending dangerous or offensive goods without giving notice.

33. (1) If a licensee fails on demand to give the account mentioned in section 18, or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees.

Penalty for licensee not giving to promoter or lessee an account of traffic or giving false account.

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

34. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence

Saving of prosecutions

(Settlement of Differences. Sec. 35.)

under other
laws.

against this Act or the rules made under it, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Act or the rules made under it :

Provided that a person shall not be punished twice for the same offence.

Settlement of Differences.

Differences
between
promoters
or lessees and
authorities.

35. (1) If any difference arises between the promoter or lessee on the one hand and the Local Government, or the local authority, or the road-authority, or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway, on the other hand, with respect to any interference or control exercised or claimed to be exercised by, or on behalf of, either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or on the question whether any work is such as ought reasonably to satisfy the Local Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under this Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled, on the application of either party, by a referee. XIV of 1882.

(2) Where the difference is—

- (a) between the promoter or lessee on the one hand and the Local Government, either as such or as the road-authority, on the other, or
- (b) between the promoter on the one hand and the local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(3) In other cases the referee shall be appointed by the Local Government.

(4) Except where the referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority

(Recovery of Tolls. Secs. 36-38.)

has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

Recovery of Tolls.

36. Any of the following moneys, namely, any rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter or lessee under an award of a referee, the cost of the performance under this Act by the Local Government or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road-authority in removing a tramway and reinstating a road under this Act, may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Collector, as if the sum due were an arrear of land-revenue due by the promoter or lessee or his surety (if any):

Recovery of moneys due from promoters and, in certain cases, from lessees.

Provided that nothing in this section shall authorize the arrest of the promoter or lessee or his surety in execution of any process issued by the Collector.

37. (1) If a licensee fails to pay on demand the tolls due for the use of a tramway, the promoter or lessee to whom the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other moveable property of the licensee which may be found on the tramway or on premises connected therewith.

Recovery of tolls from licensees.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or lessee to whom the tolls are due may seize any carriage or other moveable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an interim order of distraint pending his final decision.

38. Any toll due to a promoter, lessee or licensee from a passenger may be recovered either by suit or, on application to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress

Recovery of tolls from passengers.

(*Savings. Secs. 39-41. Supplemental Provisions. Secs. 42-43.*)

and sale of any moveable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

Savings.

Promoter to have right of user only.

39. (1) Notwithstanding anything contained in this Act, or in an order or any rule made under this Act, a promoter shall not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act, or in an order or any rule made under this Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Local Government may, if it thinks fit, fix rates at which a promoter, lessee or licensee may compound for the charges payable in respect of the use of a road or bridge.

Saving of power over roads traversed by tramways.

40. (1) Nothing in this Act, or in an order or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority or other person has by law to break up, widen, alter, divert or improve a road, railroad or tramway along or across which a tramway is laid.

(2) The road-authority, local authority or other person executing any work referred to in sub-section (1) shall not be liable to pay to a promoter, lessee or licensee any compensation for injury done to a tramway by the execution of the work or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

Saving of power of local authority and police to regulate traffic on roads.

41. Nothing in this Act, or in an order or any rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police-officer to regulate the passage of traffic along or across a road along or across which a tramway is laid; and the authority, Magistrate or officer aforesaid may exercise its or his powers as well on as off the tramway and with respect as well to the traffic of a promoter, lessee or licensee as to the traffic of other persons.

Supplemental Provisions.

Promoters, lessees and licensees to be responsible for all injuries.

42. A promoter, lessee or licensee shall be answerable for all injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his carriages or works, and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

Want of funds not a

43. For the purposes of this Act want of funds shall not be deemed to be

(Supplemental Provisions. Secs. 44-47.)

a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

sufficient reason for default.

44. When a tramway is constructed under this Act within the limits of a municipality, the Local Government may exempt the animals, plant, rolling-stock, yards, workshops, engine-sheds and depôts of the promoter, lessee or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits.

Power to exempt from municipal taxation.

45. (1) The fund to or with the control or management of which the local authority of a municipality, cantonment or district is entitled or entrusted shall, notwithstanding anything in any enactment respecting the purposes to which that fund may be applied, be applicable, subject to the control of the Local Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in, or exercised by a local authority under this Act.

Application by local authorities of local funds to tramways.

(2) The fund shall also be applicable, with the previous sanction of the Local Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

46. The Local Government may, with the consent of the local authority and road-authority and of the promoter and his lessee (if any), extend any part of this Act, or any rules made under this Act, either with or without modification, to the whole or any part of a tramway constructed, or authorized by the Local Government to be constructed, before the passing of this Act, and may withdraw any part of the Act or any rules so extended.

Extension of Act to existing tramways.

47. (1) A tramway of which the construction has not been authorized by the Local Government before the passing of this Act shall not, after the passing of this Act, be constructed for public traffic in any place to which this Act extends, except in pursuance of an order made under this Act.

Prohibition of construction of tramways except under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section,

or after the passing of this Act maintaining or using for public traffic, otherwise than in pursuance of an order made under this Act, a tramway which was not constructed, or authorized by the Local Government to be constructed, before the passing of this Act,

shall be liable, on the complaint of the Local Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

Transfer of control on exclusion of local area from circle of local authority.

48. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies ceases to be included in the circle of a local authority, the functions of that authority under this Act, or the part thereof or the rule thereunder, and under the order (if any), shall, in respect of that local area, devolve on the Local Government or, if that Government [so directs, on the local authority of the circle in which the tramway has been included.

Explanation and amendment of section 54 of Railway Act.

49. (1) In section 54 of the Indian Railway Act, 1879, the word "tram- IV of 1879. way" shall have the meaning assigned to it by section 3 of this Act.

(2) In the same section of that Act, after the words "by steam" the words "or other mechanical power" shall be added.

Powers of Local Government exercisable from time to time.

50. All powers conferred by this Act on a Local Government may be exercised from time to time as occasion requires.

THE PETROLEUM ACT, 1886.

CONTENTS.

Preliminary.

SECTIONS.

1. Short title, commencement and local extent.
2. Repeal.
3. Definitions.
4. Matters supplemental to the definitions.

Dangerous Petroleum.

5. Dangerous petroleum in quantities exceeding forty gallons.
6. Dangerous petroleum in quantities not exceeding forty gallons.
7. Vessels containing dangerous petroleum to be labelled.

Petroleum generally.

8. Power for Local Government to make rules as to importation and refining of petroleum.
9. Procedure after petroleum has been discharged or landed.
10. Possession and transport of petroleum.
11. Power to make rules as to possession and transport.
12. Power to inspect and require dealer to sell samples.
13. Notice to be given when officer proposes to test samples.
14. Certificate as to result of testing.

*(Preliminary. Sec. 1.)**Penalties.*

SECTIONS.

15. Penalty for illegal importation, possession or transport of petroleum.
16. Penalty for keeping, transporting, selling or exposing for sale petroleum in contravention of section 7.
17. Penalty for refusing to comply with section 12.
18. Confiscation of petroleum.
19. Jurisdiction.

Test-apparatus.

20. Model test-apparatus.
21. Verification of test-apparatus.

Miscellaneous.

22. Power to Local Government to exempt petroleum from operation of this Act.
23. Power to apply this Act to other fluids.
24. Power to limit operation of enactments relating to municipalities.
25. Power to revoke or vary notifications.
26. Procedure for making and publication of rules.

THE SCHEDULE.

ACT No. XII OF 1886.

Received the Governor General's assent on the 12th March, 1886.

An Act to regulate the importation, possession and transport of
Petroleum and other fluids of a like nature.

WHEREAS it is expedient to regulate the importation, possession and transport of petroleum and other fluids of a like nature; It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the Petroleum Act, 1886; and
- (2) It shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints.

Short title,
commence-
ment and
local extent.

(3) The provisions of this Act relating to dangerous petroleum, and the importation of petroleum, extend to the whole of British India. The rest of this Act extends only to such local areas as the Local Government may from time to time, by notification in the official Gazette, direct.

(4) Any power conferred by this Act to make rules or issue orders may be exercised at any time after the passing of this Act; but a rule or order so made or issued shall not take effect until the Act comes into force.

(Preliminary. Secs. 2-4.)

Repeal.

2. (1) On and from the day on which this Act comes into force, the Petroleum Act, 1881, shall be repealed: VIII of 1881.

(2) But all notifications issued, rules made, licenses granted, powers conferred and certificates given under that Act shall, so far as may be, be deemed to have been issued, made, granted, conferred and given under this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) “petroleum” includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance, or from any products of petroleum; but it does not include any oil ordinarily used for lubricating purposes and having its flashing point at or above two hundred degrees of Fahrenheit’s thermometer:

(2) “dangerous petroleum” means petroleum having its flashing point below seventy-six degrees of Fahrenheit’s thermometer:

Provided that, when all or any of the petroleum on board a ship, or in the possession of a dealer, is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous if the samples selected from the petroleum have their flashing points, on an average, at or above seventy-three degrees of Fahrenheit’s thermometer, and if no one of those samples has its flashing point below seventy degrees of that thermometer:

(3) “import” means to bring into British India by sea or land,

and “importation” means the bringing into British India as aforesaid:

(4) “transport” means to remove from one place to another within British India: and

(5) “ships” includes anything made for the conveyance by water of human beings or property.

Matters supplemental to the definitions.

4. (1) The flashing point of petroleum means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested in accordance with the directions in the schedule to this Act with an apparatus which has been stamped and certified as provided by this Act within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections (if any) which the certificate declares are to be applied to the results of the testing have been made.

(2) Notwithstanding anything in the definitions of “import”, “importation” and “transport”, the Local Government, with the previous sanction of

(Dangerous Petroleum. Secs. 5-6.)

the Governor General in Council, may from time to time, by notification in the official Gazette, declare—

- (a) that petroleum imported into its territories from any part of British India, by sea or across intervening territory not being part of British India, shall, for all or any of the purposes of this Act, be deemed to be transported; and
- (b) that petroleum transported into its territories from any place in British India shall, for all or any of those purposes, be deemed to be imported;

and thereupon the provisions of this Act, and of the rules made under this Act with respect to transport and import, respectively, shall apply to petroleum so imported or transported.

Dangerous Petroleum.

5. (1) No quantity of dangerous petroleum exceeding forty gallons shall be imported or transported, or kept by any one person or on the same premises, except under, and in accordance with, the conditions of a license from the Local Government granted as next hereinafter provided.

Dangerous petroleum in quantities exceeding 40 gallons.

(2) Every application for such a license shall be in writing, and shall declare—

- (a) the quantity of the petroleum which it is desired to import, transport or possess, as the case may be;
- (b) the purpose for which the applicant believes that the petroleum will be used; and
- (c) that petroleum other than dangerous petroleum cannot be used for that purpose.

(3) If the Local Government sees reason to believe that the petroleum will be used for that purpose and that no petroleum other than dangerous petroleum can be used for the purpose, it may grant the license for the importation, transport or possession (as the case may be) of the petroleum absolutely or subject to such conditions as it thinks fit.

6. No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a license:

Dangerous petroleum in quantities not exceeding forty gallons.

Provided that nothing in this section shall apply in any case when the quantity of the petroleum kept by any one person or on the same premises, or transported, does not exceed three gallons, and the petroleum is placed in separate glass, stoneware or metal vessels, each of which contains not more than a pint and is securely stopped.

(Dangerous Petroleum. Sec. 7. Petroleum generally. Sec. 8.)

Vessels containing dangerous petroleum to be labelled.

7. Dangerous petroleum—

- (a) which is kept at any place after seven days from the date on which it is imported, or
- (b) which is transported, or
- (c) which is sold or exposed for sale,

shall be contained in vessels having attached thereto a label in conspicuous characters stating the description of the petroleum, with the addition of the words “highly inflammable” and with the addition—

- (d) in the case of a vessel kept, of the name and address of the consignee or owner;
- (e) in the case of a vessel transported, of the name and address of the sender; and
- (f) in the case of a vessel sold or exposed for sale, of the name and address of the vendor.

Petroleum generally.

Power for Local Government to make rules as to importation and refining of petroleum.

8. (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules consistent with this Act to regulate the importation of petroleum, and in particular—

- (a) to determine the ports at which only petroleum may be imported;
- (b) to ascertain the quantity and description of any petroleum on board any ship;
- (c) to determine the places at which, and the conditions on and subject to which, petroleum may be discharged into boats, landed, transhipped or stored;
- (d) to provide for the selection by an officer appointed by the Local Government in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed;
- (e) to provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples;
- (f) to provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples;

(Petroleum generally. Secs. 9-10.)

- (g) to fix fees for the sampling and testing of petroleum ; and
- (h) to fix fees for the storage of petroleum unless a body of port commissioners or other like body is empowered in that behalf.

(2) The Local Government, with the previous sanction of the Governor General in Council, may, with respect to any petroleum produced within its territories, make rules—

- (a) to define the limits of the places where the petroleum is to be refined ;
- (b) to provide for the testing of the petroleum at or near those places ;
and
- (c) to prevent the removal from those limits, otherwise than under the provisions of this Act applicable to dangerous petroleum, of petroleum which has not satisfied the tests prescribed by the rules.

9. (1) Petroleum discharged into boats or landed in accordance with rules made under section 8, sub-section (1), shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Local Government in this behalf in the manner described in the schedule to this Act, with an apparatus which has been stamped and certified as provided by this Act, and until the officer has given a certificate that the petroleum is not dangerous petroleum.

Procedure
after petro-
leum has
been dis-
charged or
landed.

(2) If the officer after testing the samples refuses to give the certificate in respect of any petroleum, the Local Government may permit the consignee, within a time to be fixed by the Local Government in this behalf,—

- (a) to rectify the petroleum,
- (b) to apply for a license to import the petroleum as dangerous petroleum,
or
- (c) to re-export the petroleum.

(3) If the consignee does not within the time fixed under sub-section (2) avail himself of the permission granted under that sub-section, the petroleum may be disposed of as the Local Government directs.

(4) Notwithstanding anything in the foregoing portions of this section, the Local Government in its discretion may, where the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by it in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorize its removal from the boats or places in or at which it is stored.

10. No quantity of petroleum exceeding five hundred gallons shall be kept by any one person or on the same premises or shall be transported except

Possession
and transport
of petroleum.

(Petroleum generally. Secs. 11-13.)

under, and in accordance with the conditions of, a license granted under this Act.

Power to
make rules
as to posses-
sion and
transport.

11. (1) The Local Government, with the previous sanction of the Governor General in Council, may make rules consistent with this Act as to the granting of licenses to possess or transport petroleum in cases where such licenses are by law required.

(2) The rules may provide for the following among other matters, that is to say :—

in the case of licenses to possess petroleum—

(a) the nature and situation of the premises for which they may be granted, and

(b) the inspection of the premises and the testing of petroleum found thereon ;

in the case of licenses to transport petroleum—

(c) the manner in which the petroleum is to be packed, the mode and time of transit, and the route by which it is to be taken, and

(d) the stoppage and inspection of it during transit ;

in the case of both such licenses—

(e) the authority by which the license may be granted ;

(f) the fee to be charged for it ;

(g) the quantity of petroleum it is to cover ;

(h) the conditions which may be inserted in it ;

(i) the time during which it is to continue in force ; and

(j) the renewal of the license.

(3) The Governor General in Council may make rules consistent with this Act as to the granting of licenses to transport petroleum from any part of British India to any other part of British India in cases where such licenses are by law required ; and those rules may provide, among other matters, for those mentioned in sub-section (2) as matters for which rules made by a Local Government with respect to licenses to transport petroleum may provide.

Power to
inspect and
require
dealer to sell
samples.

12. Any officer specially authorized by name or by virtue of his office in this behalf by the Local Government may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of the petroleum on payment of the value of the samples.

Notice to be
given when
officer pro-
poses to test
samples.

13. When any such officer has, in exercise of the powers conferred by section 12, or by purchase, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to the dealer informing him that

(Petroleum generally. Sec. 14. Penalties. Secs. 15-18.)

he is about to test the sample or cause it to be tested with the apparatus and in the manner described in the schedule to this Act, at a time and place to be fixed in the notice, and that the dealer or his agent may be present at the testing.

14. On any such testing, if it appears to the officer or other person so testing that the petroleum from which the sample has been taken is or is not dangerous petroleum, the officer or other person may certify the fact; and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Act against the dealer in whose possession the petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein; and a certified copy of the certificate shall be given free of charge to the dealer at his request.

Certificate
as to result
of testing.

Penalties.

15. Any person who, in contravention of this Act or of any rules made under this Act, imports, possesses or transports any petroleum, and any person who otherwise contravenes any such rules or any condition contained in a license granted under this Act, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for
illegal
importation,
possession or
transport of
petroleum.

16. Any person keeping, transporting, selling or exposing for sale petroleum in vessels not labelled as prescribed by section 7 shall be punished with fine which may extend to five hundred rupees.

Penalty for
keeping,
transporting,
selling or
exposing for
sale petroleum
in contraven-
tion of section
7.

17. Any dealer in petroleum who refuses or neglects to show to any officer authorized under section 12 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of the petroleum on payment of the value of the samples, shall be punished with fine which may extend to two hundred rupees.

Penalty for
refusing to
to comply
with section
12.

18. In any case in which an offence under section 15 or section 16 has been committed, the convicting Magistrate may direct that—

Confiscation
of petroleum.

- (a) the petroleum in respect of which the offence has been committed, or
- (b) where the offender is importing or transporting, or is in possession of, any petroleum exceeding the quantity (if any) which he is permitted to import, transport or possess, as the case may be, the whole of the petroleum which he is importing or transporting or is in possession of,

(Penalties. Sec. 19. Test-apparatus. Secs. 20-21. Miscellaneous.
Sec. 22.)

shall, together with the tins or other vessels in which it is contained, be confiscated.

Jurisdiction. 19. The criminal jurisdiction under this Act shall, in the towns of Calcutta, Madras and Bombay, be exercised by a Presidency Magistrate, and elsewhere by a Magistrate of the first class, or (where specially empowered by the Local Government to try cases under this Act) a Magistrate of the second class.

Test-apparatus.

Model test-apparatus. 20. A model of the apparatus for testing petroleum under this Act, constructed in accordance with the description contained in the schedule to this Act, shall be deposited in the office of the Chemical Examiner to Government, Calcutta, and be marked with the words "Model test-apparatus."

Verification of test-apparatus 21. (1) The Chemical Examiner shall, on payment of such fee (if any) as the Governor General in Council may from time to time, by notification in the Gazette of India, prescribe, compare with the said model test-apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose.

(2) If any apparatus for testing petroleum, when compared and verified as provided by sub-section (1), is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Chemical Examiner shall stamp the same with a special number, and with the date of the verification, and shall further give a certificate in writing under his hand, in a form to be prescribed by the Governor General in Council, to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests.

(3) A certificate granted under this section shall, until the contrary is proved, be conclusive proof of the matters stated therein.

(4) The Chemical Examiner shall keep a register, in a form to be prescribed by the Governor General in Council, of the certificates granted under this section.

(5) Subject to the payment of such fees as the Governor General in Council may, by notification in the Gazette of India, prescribe in this behalf, the said model test-apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

Miscellaneous.

Power to

22. The Local Government may, from time to time, by notification in the

(Miscellaneous. Secs. 23-26.)

official Gazette, exempt from the operation of all or any of the provisions of this Act, or of all or any of the rules made under this Act, any petroleum which has its flashing point at or above one hundred and twenty degrees of Fahrenheit's thermometer and is imported as ordinary cargo and in quantity not exceeding that specified in the notification.

Local Government to exempt petroleum from operation of this Act.

23. The Governor General in Council may, from time to time, by notification in the Gazette of India, apply the whole or any portion of this Act to any inflammable fluid other than petroleum, and may by the notification fix, in substitution for the quantities of petroleum fixed by sections 5, 6 and 10, the quantities of the fluid to which those sections shall apply.

Power to apply this Act to other fluids.

24. The Governor General in Council may, from time to time, by notification in the Gazette of India and in the local official Gazette, limit, in any manner he deems fit, the operation of any enactment for the time being in force relating to municipalities in any local area or to any particular municipality, and the exercise of any power conferred by any such enactment, in so far as the enactment relates to the possession or transport of petroleum.

Power to limit operation of enactments relating to municipalities.

25. A notification made under this Act may be revoked or varied by the authority making it by a notification published in the same manner as the notification so revoked or varied.

Power to revoke or vary notifications.

26. (1) An authority making rules under this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

Procedure for making and publication of rules.

(2) The publication shall be made in such manner as the Governor General in Council, from time to time, by notification in the Gazette of India, prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority making the rules shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect if it is made by the Governor General in Council until it has been published in the Gazette of India, and if it is made by the Local Government until it has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

(7) All powers to make rules conferred by this Act may be exercised from time to time as occasion requires.

THE SCHEDULE.

I.—Nature of the Test-apparatus.

The apparatus consists of the following parts:—

- (1) the oil-cup;
- (2) the cover, with slide, test-lamp and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame;
- (3) the water-bath or heating vessel;
- (4) the tripod stand, with jacket and spirit-lamp for heating the water-bath;
- (5) the thermometer for indicating the temperature of the oil in the oil-cup;
- (6) the thermometer for indicating the temperature of the water in the water-bath;
- (7) the thermometer for indicating the temperature of the oil before it is poured into the oil-cup;
- (8) the dropping bottle or *pipette* for replenishing the test-lamp; and
- (9) a barometer standardised at the Meteorological Office of the province or at any other place appointed by the Local Government.

The oil-cup is a cylindrical flat-bottomed vessel, made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close-fitting overlapping cover, which carries the thermometer, the test-lamp and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed

(The Schedule.)

a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which during the operation of testing the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

II.—Directions for drawing the Sample and preparing it for testing.

1. *Drawing the sample.*—In all cases the testing officer or some person duly authorized by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about 40 fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

Preparing the sample for testing.—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding 50° Fahrenheit.

III.—Directions for preparing and using the Test-apparatus.

1. *Preparing the water-bath.*—The water-bath is filled by pouring water

into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be 130° Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

2. *Preparing the test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wickholder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or *pipette* provided for that purpose. This can be safely done without interrupting the test.

3. *Filling the oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding 50° Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

4. *Application of the test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it, and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached 56° Fahrenheit the clockwork is set in motion by pressing the trigger.

If no flash takes place the clockwork is at once re-wound, and the trigger

(The Schedule.)

pressed at 57° Fahrenheit, and so on, at every degree rise of temperature, until the flash occurs, or until a temperature of 95° Fahrenheit has been reached.

If the flash takes place at any temperature below 77° Fahrenheit the temperature at which it occurs is to be recorded. The fresh portions of the sample are then to be successively tested in a similar manner and the results recorded. If no greater difference than 2° Fahrenheit exists between any two of the three recorded results, each result is to be corrected for atmospheric pressure, as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than 2° Fahrenheit between any two of the results, the series of tests is to be rejected and a fresh series, of three, similarly obtained, and so on until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

No flash which takes place within eight degrees of the temperature at which the testing is commenced shall be accepted as the true flashing point of the sample tested. In the event of a flash occurring at or below 64° when the test is applied in the manner above described, the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at 54° or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than 2°.

If a temperature of 76° Fahrenheit has been reached without a flash occurring, the application of the test-flame is to be continued at every degree rise of temperature until a temperature of 95° Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is declared to be imported subject to the provisions of the Act, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over 95° and is not dangerous. But if the petroleum is oil ordinarily used for lubricating purposes and is declared to have its flashing point at or above 200°, or is oil to which a notification of the Local Government exempting it from the operation of the Act will be applicable in the event of the flashing point being found to be at or above 120°, the test shall be continued as follows:—The oil-cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to 95° Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air-chamber is then to be filled to a depth of 1½ inches with water at a temperature of about 95° Fahrenheit, the oil-cup is to be replaced in the water-bath and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied, from 96° Fah-

renheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place or until a temperature of 200° Fahrenheit, or 120° Fahrenheit as the case may be, has been reached. If during this operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at (2) without interrupting the test.

If a flash occurs at any temperature between 76° and 200° Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil and cooled, as already described, before receiving the fresh sample.

5. *Correction for atmospheric pressure.*—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of 1·6° Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must therefore be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered to be the height of the column of mercury measured at 32° Fahrenheit, which is supported by the air pressure at the time of the experiment; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule, giving the flashing points of oils ranging from 65° to 80° Fahrenheit, under pressure ranging from 27 to 31 inches of mercury.

The table is used in the following manner:—

Example.—An oil has given a flashing point of 71°, the barometer being at 28·6 inches; take the nearest number to 71° in the vertical column headed 28·6. This number is 70·8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number—that is, the true flashing point of the oil—is 73°.

Table for correction of Flashing Points indicated by the Test for Variations in Barometric Pressure on either side of Thirty Inches.

| Barometer in Inches. | | | | | | | | | | | | | | | | | | | | |
|---------------------------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|----|------|------|------|------|------|
| 27 | 27.2 | 27.4 | 27.6 | 27.8 | 28 | 28.2 | 28.4 | 28.6 | 28.8 | 29 | 29.2 | 29.4 | 29.6 | 29.8 | 30 | 30.2 | 30.4 | 30.6 | 30.8 | 31 |
| Flashing Point in Degrees Fahrenheit. | | | | | | | | | | | | | | | | | | | | |
| 60.2 | 60.5 | 60.8 | 61.2 | 61.5 | 61.8 | 62.1 | 62.4 | 62.8 | 63.1 | 63.4 | 63.7 | 64 | 64.4 | 64.7 | 65 | 65.3 | 65.6 | 66 | 66.3 | 66.6 |
| 61.2 | 61.5 | 61.8 | 62.2 | 62.5 | 62.8 | 63.1 | 63.4 | 63.8 | 64.1 | 64.4 | 64.7 | 65 | 65.4 | 65.7 | 66 | 66.3 | 66.6 | 67 | 67.3 | 67.6 |
| 62.2 | 62.5 | 62.8 | 63.2 | 63.5 | 63.8 | 64.1 | 64.4 | 64.8 | 65.1 | 65.4 | 65.7 | 66 | 66.4 | 66.7 | 67 | 67.3 | 67.6 | 68 | 68.3 | 68.6 |
| 63.2 | 63.5 | 63.8 | 64.2 | 64.5 | 64.8 | 65.1 | 65.4 | 65.8 | 66.1 | 66.4 | 66.7 | 67 | 67.4 | 67.7 | 68 | 68.3 | 68.6 | 69 | 69.3 | 69.6 |
| 64.2 | 64.5 | 64.8 | 65.2 | 65.5 | 65.8 | 66.1 | 66.4 | 66.8 | 67.1 | 67.4 | 67.7 | 68 | 68.4 | 68.7 | 69 | 69.3 | 69.6 | 70 | 70.3 | 70.6 |
| 65.2 | 65.5 | 65.8 | 66.2 | 66.5 | 66.8 | 67.1 | 67.4 | 67.8 | 68.1 | 68.4 | 68.7 | 69 | 69.4 | 69.7 | 70 | 70.3 | 70.6 | 71 | 71.3 | 71.6 |
| 66.2 | 66.5 | 66.8 | 67.2 | 67.5 | 67.8 | 68.1 | 68.4 | 68.8 | 69.1 | 69.4 | 69.7 | 70 | 70.4 | 70.7 | 71 | 71.3 | 71.6 | 72 | 72.3 | 72.6 |
| 67.2 | 67.5 | 67.8 | 68.2 | 68.5 | 68.8 | 69.1 | 69.4 | 69.8 | 70.1 | 70.4 | 70.7 | 71 | 71.4 | 71.7 | 72 | 72.3 | 72.6 | 73 | 73.3 | 73.6 |
| 68.2 | 68.5 | 68.8 | 69.2 | 69.5 | 69.8 | 70.1 | 70.4 | 70.8 | 71.1 | 71.4 | 71.7 | 72 | 72.4 | 72.7 | 73 | 73.3 | 73.6 | 74 | 74.3 | 74.6 |
| 69.2 | 69.5 | 69.8 | 70.2 | 70.5 | 70.8 | 71.1 | 71.4 | 71.8 | 72.1 | 72.4 | 72.7 | 73 | 73.4 | 73.7 | 74 | 74.3 | 74.6 | 75 | 75.3 | 75.6 |
| 70.2 | 70.5 | 70.8 | 71.2 | 71.5 | 71.8 | 72.1 | 72.4 | 72.8 | 73.1 | 73.4 | 73.7 | 74 | 74.4 | 74.7 | 75 | 75.3 | 75.6 | 76 | 76.3 | 76.6 |
| 71.2 | 71.5 | 71.8 | 72.2 | 72.5 | 72.8 | 73.1 | 73.4 | 73.8 | 74.1 | 74.4 | 74.7 | 75 | 75.4 | 75.7 | 76 | 76.3 | 76.6 | 77 | 77.3 | 77.6 |
| 72.2 | 72.5 | 72.8 | 73.2 | 73.5 | 73.8 | 74.1 | 74.4 | 74.8 | 75.1 | 75.4 | 75.7 | 76 | 76.4 | 76.7 | 77 | 77.3 | 77.6 | 78 | 78.3 | 78.6 |
| 73.2 | 73.5 | 73.8 | 74.2 | 74.5 | 74.8 | 75.1 | 75.4 | 75.8 | 76.1 | 76.4 | 76.7 | 77 | 77.4 | 77.7 | 78 | 78.3 | 78.6 | 79 | 79.3 | 79.6 |
| 74.2 | 74.5 | 74.8 | 75.2 | 75.5 | 75.8 | 76.1 | 76.4 | 76.8 | 77.1 | 77.4 | 77.7 | 78 | 78.4 | 78.7 | 79 | 79.3 | 79.6 | 80 | 80.3 | 80.6 |
| 75.2 | 75.5 | 75.8 | 76.2 | 76.5 | 76.8 | 77.1 | 77.4 | 77.8 | 78.1 | 78.4 | 78.7 | 79 | 79.4 | 79.7 | 80 | 80.3 | 80.6 | 81 | 81.3 | 81.6 |

THE INDIAN SECURITIES ACT, 1886.

CONTENTS.

SECTIONS.

1. Short title and commencement.
2. Repeal.
3. Definitions.
4. Notice of trust not receivable.
5. Right of survivors of joint payees of Government securities.
6. Prohibition of indorsements on allonges to Government securities.
7. Holding of Government securities by holders for the time being of public offices.
8. Transfer and discharge of certificates and coupons.
9. Indorser of Government security not liable for amount thereof.
10. Impression of signature on Government securities.
11. Issue of renewed securities.
12. Issue of duplicate securities.
13. Period after which the Government is released from liability in respect of original security.
14. Power of Governor General in Council to make rules.
15. Publication of drafts and rules.

ACT No. XIII OF 1886.*

Received the Governor General's assent on the 19th March, 1886.

An Act to consolidate and amend the law relating to Government Securities.

WHEREAS it is expedient to consolidate and amend the law relating to Government securities; It is hereby enacted as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Indian Securities Act, 1886; and

(2) It shall come into force on the first day of April, 1886.

(3) The power conferred on the Governor General in Council by section 7, sub-section (1), may be exercised at any time after the passing of this Act; but a notification issued in exercise of that power shall not take effect until the Act comes into force.

Repeal.

2. (1) On and from the day on which this Act comes into force, the Indian Securities Act, 1881, and the Indian Securities Act, 1885, shall be repealed.

III of 1881.
XIX of 1885.

* This Act has been declared in force in Upper Burma (except the Shan States) by Act XX of 1886, s. 6 (1).

(Secs. 3-7.)

(2) But any authority conferred, notification issued, list published or rule or order made under either of those Acts shall, so far as may be, be deemed to have been conferred, issued, published or made under this Act.

3. In this Act—

Definitions.

(1) "Government security" includes promissory notes, debentures, stock-certificates and all other securities issued by the Government of India or by any Local Government in respect of any loan contracted either before or after the passing of this Act, but does not include a stock-note or a currency-note : and

(2) "prescribed" means prescribed by rules made by the Governor General in Council.

4. No notice of any trust in respect of any Government security shall be receivable by the Government.

Notice of trust not receivable.

IX of 1872.

5. (1) Notwithstanding anything in the Indian Contract Act, 1872, section 45, when a Government security is payable to two or more persons jointly and either or any of them dies, the security shall be payable to the survivor or survivors of those persons.

Right of survivors of joint payees of Government securities.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the security jointly payable to him or them and the deceased.

(3) This section shall apply whether the death of the person to whom the security was jointly payable occurred or occurs before or after this Act comes into force.

XXVI of 1881.

6. Notwithstanding anything in section 15 of the Negotiable Instruments Act, 1881, the holder of a Government security shall not be said to indorse the security, or be called the indorser thereof, if, when he signs the same for the purpose of negotiation, he inscribes his signature for that purpose elsewhere than on the back of the security itself.

Prohibition of indorsements on allonges to Government securities.

7. (1) In the case of any public office to which the Governor General in Council may, from time to time, by notification in the Gazette of India, declare this sub-section to apply, a Government security may be made or indorsed payable to or to the order of the holder for the time being of the office by the name of the office.

Holding of Government securities by holders for the time being of public offices

(2) When a Government security is made or indorsed as aforesaid, it shall be deemed to be transferred without any or further indorsement from each holder for the time being of the office to the succeeding holder for the time being of the office on and from the date on which the latter takes charge of the office.

(3) When the holder for the time being of the office indorses to a third

(Secs. 8-12.)

party a Government security made or indorsed as aforesaid, he shall subscribe the indorsement with his name and the name of the office.

(4) A writing on a Government security now or heretofore standing in the name of the holder of a public office, whereby the security has been or was made or indorsed payable to or to the order of the holder of the office for the time being, shall not be deemed to be or to have been invalid by reason only of the payee or indorsee being the holder for the time being of a public office by the name of the office.

(5) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

Transfer and
discharge of
certificates
and coupons.

8. (1) Whenever the Governor General in Council has issued, in respect of any loan, a certificate declaring the bearer thereof to be entitled to the portion of the loan therein expressed, or a coupon for any amount payable as interest on any portion of the loan, the title to the certificate or coupon may be transferred as if the certificate or coupon were a promissory note payable to bearer.

(2) On payment, by or on behalf of the Government, to the bearer of the certificate or coupon, of the amount expressed therein, at or after the date on which it becomes due, the Government shall be discharged as if the certificate or coupon were a promissory note payable to bearer.

Indorser of
Government
security not
liable for
amount
thereof.
Impression
of signature
on Govern-
ment securi-
ties.

9. A person shall not, by reason only of his having indorsed a Government security, be liable to pay any money due, either as principal or as interest, thereunder.

10 (1) The signature of the officer of the Government of India authorized to sign Government securities on behalf of the Government may be printed, engraved or lithographed, or impressed by such other mechanical process as the Governor General in Council may direct, on the securities.

(2) A signature so printed, engraved, lithographed or otherwise impressed shall be as valid as if it had been inscribed in the proper handwriting of the officer.

Issue of re-
newed securi-
ties.

11. A person claiming to be entitled to a Government security as payable to him under an indorsement may, on satisfying the prescribed officer of the justice of his claim and paying the prescribed fee and delivering the security duly receipted to the prescribed officer, obtain from the officer a renewed security issued payable to himself.

Issue of
duplicate
securities.

12. (1) When a Government security is alleged to have been wholly or partly lost or destroyed, and a person claims to be the person to whom but for the loss or destruction it would be payable, he may, on application to the

(Secs. 13-14.)

prescribed officer, and on producing proof to his satisfaction of the loss or destruction and of the justice of the claim, obtain from him an order for—

- (a) the payment of interest in respect of the security said to be lost or destroyed pending the issue of a duplicate security; and
- (b) the issue of a duplicate security payable to the applicant.

(2) An order shall not be passed under sub-section (1) until after the issue of the prescribed notification of the loss or destruction and after the expiration of the prescribed period, nor until the applicant has given the prescribed indemnity against the claims of all persons deriving title under the security lost or destroyed.

(3) A list of the securities in respect of which an order is passed under sub-section (1) shall be published in the Gazette of India at such times as the Governor General in Council may, from time to time, direct.

13. When a renewed security has been issued under section 11, or a duplicate security has been issued under section 12, the Government shall be discharged from all liability in respect of the original security of which the renewed or duplicate security has been issued—

Period after which the Government is released from liability in respect of original security.

- (a) in the case of a renewed security, after the lapse of six years from the date of the issue of the renewed security;
- (b) in the case of a duplicate security, after the lapse of six years from the date of the publication under section 12, sub-section (3), of the list in which the security is first mentioned, or from the date of the last payment of interest on the original security, whichever date is the later.

14. The Governor General in Council may, from time to time, make rules to prescribe—

Power of Governor General in Council to make rules.

- (a) the mode in which payment of interest in respect of Government securities is to be recorded and acknowledged;
- (b) the circumstances in which Government securities must be renewed before further payment of interest thereon can be claimed;
- (c) the fees to be paid in respect of applications under sections 11 and 12;
- (d) the form in which securities delivered for renewal are to be receipted;
- (e) the officer who is to exercise all or any of the powers and perform all or any of the duties prescribed by sections 11 and 12;
- (f) the proof which is to be produced by persons applying for duplicate securities;

- (g) the form and mode of publication of the notification mentioned in section 12, and the period after which interest may be paid or a duplicate security may be issued under that section ;
- (h) the nature and amount of the indemnity to be given by a person applying under section 12 for the payment of interest or the issue of a duplicate security ; and,
- (i) generally, all matters connected with the grant of renewed and duplicate securities.

Publication
of drafts and
rules.

15. (1) The Governor General in Council shall, before making rules under section 14, publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of the public.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under section 14 shall be published in the Gazette of India, and the publication in that Gazette of a rule purporting to be made under that section shall be conclusive proof that it has been duly made.

ACT No. XVIII OF 1886.*

Received the Governor General's assent on the 24th September, 1886.

An Act to amend Act XXXVI of 1858.

WHEREAS it is expedient to amend Act XXXVI of 1858 (*an Act relating to Lunatic Asylums*) ; It is hereby enacted as follows :—

New section
inserted after
section 6.

1. After section 6 the following shall be inserted, namely :—

Detention of
supposed
lunatics
under obser-
vation.

“ 6 A. (1) Where a person found wandering at large who is deemed to be a lunatic, or where a person believed to be dangerous by reason of lunacy, is apprehended and sent to the Magistrate or the Commissioner of Police, or where, on report or information that a person deemed to be a lunatic is not under pro-

* This Act has been extended to Upper Burma (except the Shan States) under s. 5 of the Scheduled Districts Act, 1874—see Burma Gazette, 4th August, 1888, Pt. I, p. 362, and Gazette of India, 11th idem, Pt. I, p. 371.

(Secs. 2-3.)

per care and control or is cruelly treated or neglected, the Magistrate or the Commissioner of Police sends for him and then determines to proceed as prescribed in section 4 of this Act, the Magistrate or the Commissioner of Police, on the request of the medical officer, may, by order in writing, authorize the detention of the supposed lunatic for such time, not exceeding ten days, as, in the opinion of the Magistrate or the Commissioner of Police, may be necessary to enable the medical officer to form an opinion on the question whether or not the supposed lunatic is a person with respect to whom a certificate in the form A in the schedule to this Act ought to be signed.

"(2) If the medical officer certifies further detention than has been authorized under sub-section (1) to be necessary to enable him to form his opinion on that question, the Magistrate or the Commissioner of Police may from time to time, by order in writing, authorize such further detention as he deems to be necessary :

"Provided that a supposed lunatic shall not be detained for the purpose of this section for a longer time than fourteen days from the date on which the first order authorizing his detention for that purpose is made.

"(3) The Executive Government may from time to time make rules as to the place of detention, and the care and treatment, of supposed lunatics detained under this section."

2. To section 9 the words "subject to the provisions of any enactment for the time being in force" shall be prefixed.

Amendment
of section 9.

3. After section 17 the following shall be inserted, namely :—

New sections
to follow
section 17.

"17A. When an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics under this Act, the Governor General in Council may from time to time appoint an asylum established in British India beyond those limits to be an asylum to which a Magistrate or Judge exercising jurisdiction within those limits may send lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate.

Provision for
provinces
not having
asylums.

"17B. The Governor General in Council may from time to time, by order, direct, with respect to any part of British India which is not annexed to a presidency or, being annexed to the presidency of Fort William, Fort St. George or Bombay, is situated at a greater distance than three hundred miles from Calcutta, Madras or Bombay, respectively, that any lunatic asylum in British India named in the order shall be deemed for that part to be a lunatic asylum at the presidency for the purposes of this Act."

Use of pro-
vincial asy-
lums as pre-
sidency asy-
lums for
purposes of
the Act

(Part I.—Additional Clauses. Secs. 2-3.)

ACT No. I of 1887.^a*Received the Governor General's assent on the 14th January, 1887.*

An Act for further shortening the language used in Acts of the Governor General in Council, and for other purposes.

WHEREAS it is expedient further to shorten the language used in Acts made by the Governor General in Council, and to make certain further provisions relating to those Acts and to Regulations under the Statute 33 Victoria, chapter 3, section 1; It is hereby enacted as follows:—

Title and
commence-
ment.

1. (1) This Act may be called the General Clauses Act, 1887; and
- (2) It shall come into force at once.

PART I.

ADDITIONAL CLAUSES.

Application
of this Part.

2. This Part shall apply to this Act and to all Acts made by the Governor General in Council under the Indian Councils Act, 1861, after the passing of this Act. 24 & 25 Vict.,
c. 67.

Definitions.

3. In any Act to which this Part applies, unless there is something repugnant in the subject or context,—

(1) “abet” with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code^b:

XLV of 1860.

(2) “Chapter”, “Part” and “Schedule” shall denote, respectively, a Chapter and Part of, and Schedule to, the Act in which the word occurs:

(3) “sub-section” shall denote a sub-section of the section in which the word occurs:

(4) “commencement”, used with reference to an Act, shall mean the day on which the Act comes into force:

(5) “financial year” shall mean the year commencing on the first day of April:

(6) “local authority” shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

(7) “ship” shall include every description of vessel used in navigation not exclusively propelled by oars:

^aThis Act has been extended to Upper Burma (except the Shan States) under s. 5 of the Scheduled Districts Act, 1874—see Burma Gazette, 4th August, 1883, Part I, p. 362, and Gazette of India, 11th idem, Part I, p. 371.

^b See s. 107 of Act XLV of 1860.

(Part I.—Additional Clauses. Secs. 4-6.)

(8) “master”, used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship :

(9) “offence” shall mean any act or omission made punishable by any law for the time being in force :

(10) “public nuisance” shall have the meaning assigned to that expression in section 268 of the Indian Penal Code :

(11) “registered” shall mean registered under the law for the time being in force for the registration of documents :

(12) “sign”, with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include “mark,” with its grammatical variations and cognate expressions :

(13) “value”, used with reference to a suit, shall mean the amount or value of the subject-matter of the suit : and

(14) “write”, with its grammatical variations and cognate expressions, shall include “print” and “lithograph”, with their grammatical variations and cognate expressions.

4. Where, by an Act to which this Part applies and which is not to come into force immediately on the passing thereof, a power is conferred on the Governor General in Council or on a Local Government or a High Court to make rules, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, the power may be exercised at any time after the passing of the Act, but rules or orders so made or issued shall not take effect till the commencement of the Act.

Making of rules and issue of orders between passing and commencement of Act.

5. Any power conferred on the Governor General in Council or on a Local Government by an Act to which this Part applies may be exercised from time to time as occasion requires.

Powers to be exercisable by the Government from time to time.

6. Where, by an Act to which this Part applies, a power to make rules is expressed to be given subject to the condition of the rules being made after previous publication, the following provisions shall apply, namely :—

Provisions applicable to making of rules after previous publication.

(1) The authority having power to make the rules shall, before making them, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so

(Part I.—Additional Clauses. Secs. 7-8. Part II.—Supplemental Provisions. Secs. 9-10.)

requires, in such manner as the Governor General in Council or the Local Government prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority having power to make the rules, and, where the rules are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules from any person with respect to the draft before the date so specified.

(5) The publication in an official Gazette of a rule purporting to have been made in exercise of a power to make rules after previous publication shall be conclusive proof that the rule has been duly made.

Computation
of time.

7. (1) Where a limited time from any date or from the happening of any event is appointed or allowed, by an Act to which this Part applies, for the doing of any act or the taking of any proceeding in a Court or office, and the last day of the limited time is a day on which the Court or office is closed, then the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(2) Where, by an Act to which this Part applies, any act or proceeding is directed or allowed to be done or taken in a Court or office on a certain day, then, if the Court or office is closed on that day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(3) This section does not apply to any act or proceeding to which the Indian Limitation Act, 1877, applies.

XV of 1877.

Provisions
as to offences
under more
than one
enactment.

8. Where an act or omission constitutes an offence under two or more enactments of which either or any is an Act to which this Part applies, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

PART II.

SUPPLEMENTAL PROVISIONS.

Amendment
of section 3
(1), Act I,
1868.

9. The words "wholly or partially" shall be inserted before the word "repealed" in clause (1) of section 3 of the General Clauses Act, 1868, and I of 1868. shall be deemed to have been there from the commencement of that Act.

Application
of this Act

10. The provisions of this Act and of the General Clauses Act, 1868, I of 1868.

(Secs. 1-4.)

shall, so far as they can be made applicable, apply to all Regulations which may receive the assent of the Governor General under the Statute 33 Victoria, chapter 3, section 1, after the commencement of this Act.

and Act I,
1863, to
Regulations
under 33
Vict., c. 3,
s. 1.

Act No. II of 1887.

Received the Governor General's assent on the 14th January, 1887.

An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.

VIII of 1878.
XXII of
1881.
XI of 1882.

WHEREAS it is expedient to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882; It is hereby enacted as follows:—

Sea Customs Act, 1878.

VIII of 1878. 1. (1) In clause (b) of the second paragraph of section 144 of the Sea Customs Act, 1878, there shall be inserted after the word "unless" the word "either" and after the word "destination" the following, namely:—

"or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port."

(2) In the third paragraph of the same section of the same Act the following shall be substituted for the word "paid", namely:—

"so paid or the spirit so delivered."

2. In section 146 of the same Act, for the word "shall", in each of the two places where that word occurs, the word "may" shall be substituted.

3. (1) To section 148 of the same Act the following words shall be prefixed, namely:—

XI of 1882. "Notwithstanding anything in the Indian Tariff Act, 1882,".

(2) To the same section of the same Act the following shall be added, namely:—

"Provided that the Local Government may authorize the import of such spirit without the payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise-duty thereon is to be paid on the removal of the spirit from a warehouse so appointed.

4. (1) To section 151 of the same Act the following words shall be prefixed, namely:—

XI of 1882. "Notwithstanding anything in the Indian Tariff Act, 1882,".

Amendment
of section
144.

Amendment
of section
146.

Amendment
of section
148.

Amendment
of section
151.

(Secs. 5-7.)

(2) After the same section of the same Act the following shall be added, namely:—

“Provided that the Local Government may authorize the import of such spirit without the payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed.”

Excise Act, 1881.

New section substituted for section 23.

Spirit and fermented liquor from foreign territory subject to duty.

5. For section 23 of the Excise Act, 1881, the following shall be substituted, namely:— XXII of 1881.

“23. (1) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof—

“(a) if the Local Government has fixed a duty under clause (a) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or

“(b) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

“(2) The provisions of sub-section (1) with respect to spirit shall apply to fermented liquor also, with this modification that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff Act, 1882.

XI of 1882.

“(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.”

Amendment of section 36.

6. (1) In clause (c) of section 36 of the same Act, the words “or fermented liquor” shall be inserted after the words “any spirit”.

(2) In the last paragraph of the same section of the same Act the words “or fermented liquor” shall be inserted between the words “the spirit” and the words “together with”.

Indian Tariff Act, 1882.

Repeal of

7. In the preamble to the Indian Tariff Act, 1882, the words “and for XI of 1882.

(Secs. 8-9.)

fixing a maximum duty of excise on spirit manufactured in British India” portion of preamble.
are repealed.

8. To section 7 of the same Act the following shall be added, namely :— Addition to section 7.

“Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions XIII of 1878. of Chapter XIV of the Sea Customs Act, 1878.

9. In No. 2 of the second schedule to the same Act—

(a) “Rs. 5” shall be substituted for “Rs. 4” in the fifth column as the rate of duty to be levied and collected per imperial gallon or six quart bottles of “liqueurs”; and Amendment of second schedule.

(b) for the following, namely :—

| No. | Names of Articles. | Per | Tariff valuation. | Rate of duty. |
|-----|--|--|-------------------|---|
| * | * | * | * | |
| | Spirit when so used in a proportion of twenty per cent. and upwards. | Impl. Gallon or six quart bottles of the strength of London proof. | ... | Rs. 4, and the duty to be increased in proportion as the strength of the spirit exceeds London proof. |
| | Spirit, perfumed, in wood, or in bottles containing more than four ounces. | Ditto . . | ... | |
| | Spirit, other sorts . | Ditto . . | ... | |

there shall be substituted the following, namely :—

| No. | Names of Articles. | Per | Tariff valuation. | Rate of duty. |
|-----|--|--|-------------------|--|
| * | * | * | * | * |
| | Spirit when so used in a proportion of twenty per cent. and upwards. | Impl. Gallon or six quart bottles of the strength of London proof. | ... | Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof. |
| | Spirit, perfumed, in wood or in bottles. | Impl. Gallon or six quart bottles. | ... | Rs. 7-8. |
| | Spirit, other sorts. | Impl. Gallon or six quart bottles of the strength of London proof. | ... | Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof. |

ACT No. III OF 1887.*

Received the Governor General's assent on the 14th January, 1887.

An Act to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue; It is hereby enacted as follows:—

New section substituted for section 125 of the Evidence Act.
 Information as to commission of offences.

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely:—

I of 1872.

“125. No Magistrate or Police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

Explanation.—‘Revenue-officer’ in this section means any officer employed in or about the business of any branch of the public revenue.”

ACT No. V OF 1887.

Received the Governor General's assent on the 28th January, 1887.

An Act to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

X of 1882.

Amendment of section 4.

1. In the definition of “officer in charge of a police-station” in section 4, clause (o), of the said Code there shall be substituted for the word “therefrom” the words “from the station-house”, and for the words “present at the police-station” the words “present at the station-house”.

Amendment of section 312.

2. In section 312 of the said Code the word “four” shall be substituted for the word “two”.

* This Act has been extended to Upper Burma (except the Shan States) under s. 5 of the Scheduled Districts Act, 1874—see Burma Gazette, 4th August, 1888, Pt. I, p. 362, and Gazette of India, 11th idem, Pt. I, p. 371.

ACT No. VI OF 1887.*

Received the Governor General's assent on the 11th February, 1887.

An Act to amend the Indian Companies Act, 1882.

VI of 1882. WHEREAS it is expedient to amend the Indian Companies Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows:—

VI of 1882. 1. After section 200 of the Indian Companies Act, 1882, the following section shall be inserted, namely:—

Insertion of
new section
after section
200.

“200A. (1) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts—

Priority of
debts.

“(a) all revenue, taxes, cesses and rates, whether payable to Her Majesty or to a local authority, due from the company at the date of the commencement of the winding-up, and having become due and payable within the twelve months next before that date;

“(b) all wages or salary of any clerk or servant in respect of services rendered to the company within the two months next before the commencement of the winding up, not exceeding one thousand rupees for each clerk or servant; and

“(c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the two months next before the commencement of the winding-up.

“(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

“(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator.”

* This Act has been extended to Upper Burma (except the Shan States) under s. 5 of the Scheduled Districts Act, 1874—see *Burma Gazette*, 4th August, 1888, Pt. I, p. 362, and *Gazette of India*, 11th idem, Pt. I, p. 371.

(Part I.—Suits Relating to Land. Secs. 2-6.)

ACT No. VII OF 1887.^a

Received the Governor General's assent on the 11th February, 1887.

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto ; It is hereby enacted as follows :—

Title. 1. This Act may be called the Suits Valuation Act, 1887.

PART I.

SUITS RELATING TO LAND.

Extent and commencement of Part I.

2. This Part shall extend to such local areas, and come into force therein on such dates as the Governor General in Council, by notification in the Gazette of India, directs.^b

Power for Local Government to make rules determining value of land for jurisdictional purposes.

3. (1) The Local Government may, with the previous sanction of the Governor General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, VII of 1870, section 7, paragraphs v and vi, and paragraph x, clause (d).

(2) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area, and may prescribe different values for different places within the same local area.

Valuation of relief in certain suits relating to land not to exceed the value of the land.

4. Where a suit mentioned in the Court-fees Act, 1870, section 7, paragraph iv, or Schedule II, article 17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules.

Making and enforcement of rules.

5. (1) The Local Government shall, before making rules under section 3, consult the High Court with respect thereto.

(2) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette.

Repeal of

6. On and from the date on which rules under section 3 take effect in any

^a This Act has been extended to Upper Burma (except the Shan States) under s. 5 of the Scheduled Districts Act, 1874—see Burma Gazette, 1th August, 1888, Pt. I, p. 362, and Gazette of India, 11th idem, Pt. I, p. 371.

^b Part I of the Act has under s. 2 been declared to extend to the Punjab, and to come into force therein on the 1st day of March, 1889—see Gazette of India, 23rd February, 1889, Pt. I, p. 107.

(Part II.—Other Suits. Secs. 7-10. Part III.—Supplemental Provisions.
Sec. 11.)

III of 1873. part of the territories under the administration of the Governor of Fort Saint George in Council to which the Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part of those territories. section 14 of the Madras Civil Courts Act, 1873.

PART II.

OTHER SUITS.

7. This Part extends to the whole of British India, and shall come into force on the first day of July, 1887. Extent and commencement of Part II.

8. Where in suits other than those referred to in the Court-fees Act, 1870, section 7, paragraphs v, vi and ix, and paragraph x, clause (d), court-fees are payable *ad valorem* under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same. Court-fee value and jurisdictional value to be the same in certain suits.

VII of 1870. 9. When the subject-matter of suits of any class, other than suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (d), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for the purposes of the Court-fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf. Determination of value of certain suits by High Court.

XVIII of 1884. 10. Section 32 of the Punjab Courts Act, 1884, is hereby repealed. Repeal.

PART III.

SUPPLEMENTAL PROVISIONS.

XIV of 1882. 11. (1) Notwithstanding anything in section 578 of the Code of Civil Procedure, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless— Procedure where objection is taken on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes.

(a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or

(b) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued, and

*(Part III.—Supplemental Provisions. Sec. 12.)**Provincial Small Cause Courts.*

[1887 : Act IX.]

that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(2) If the objection was taken in the manner mentioned in clause (a) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in clause (b) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.

(3) If the objection was taken in that manner and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(4) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 622 of the Code of Civil Procedure or other enactment for the time being in force. XIV of 1882.

(5) This section extends to the whole of British India, and shall come into force on the first day of July, 1887.

Proceedings
pending at
commence-
ment of
Part I or
Part II.

12. Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court—

- (a) with respect to any suit instituted before rules under Part I applicable to the valuation of the suit take effect, or Part II has come into force, as the case may be, or
- (b) with respect to any appeal arising out of any such suit.

THE PROVINCIAL SMALL CAUSE COURTS ACT, 1887.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Title, extent and commencement.
2. Repeal.
3. Savings.
4. Definition.

CHAPTER II.

CONSTITUTION OF COURTS OF SMALL CAUSES.

SECTIONS.

5. Establishment of Courts of Small Causes.
 6. Judge.
 7. Appointment of times of sitting in certain circumstances.
 8. Additional Judge.
 9. Suspension and removal of Judges.
 10. Power to require two Judges to sit as a bench.
 11. Decision in case heard by a bench.
 12. Registrar.
 13. Other ministerial officers.
 14. Duties of ministerial officers.
-

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

15. Cognizance of suits by Courts of Small Causes.
 16. Exclusive jurisdiction of Courts of Small Causes.
-

CHAPTER IV.

PRACTICE AND PROCEDURE.

17. Application of the Code of Civil Procedure.
 18. Trial of suits by Registrar.
 19. Admission, return and rejection of complaints by Registrar.
 20. Passing of decrees by Registrar on confession.
 21. Execution of decrees by Registrar.
 22. Adjournment of cases by chief ministerial officer.
 23. Return of complaints in suits involving questions of title.
 24. Appeals from certain orders of Courts of Small Causes.
 25. Revision of decrees and orders of Courts of Small Causes.
 26. Amendment of the second schedule to the Code of Civil Procedure.
 27. Finality of decrees and orders.
-

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

28. Subordination of Courts of Small Causes.
29. Seal.
30. Abolition of Courts of Small Causes.
31. Saving of power to appoint Judge of Court of Small Causes to other office.
32. Application of Act to Courts invested with jurisdiction of Court of Small Causes.

(Chapter I.—Preliminary. Secs. 1-2.)

SECTIONS.

- 33. Application of Act and Code to Court so invested as to two Courts.
- 34. Modification of Code as so applied.
- 35. Continuance of proceedings of abolished Courts.
- 36. Amendment of Indian Limitation Act.
- 37. Publication of certain orders.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

ACT No. IX OF 1887.^a

Received the Governor General's assent on the 24th February, 1887.

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent
and com-
mencement.

1. (1) This Act may be called the Provincial Small Cause Courts Act, 1887.

(2) It extends to the whole of British India; and

(3) It shall come into force on the first day of July, 1887.

Repeal.

2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(2) But all Courts constituted, limits fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed,

^a Under the Scheduled Districts Act, 1874. This Act has been extended to the town of Mandalay—see Burma Gazette, 23rd July, 1887, Pt. I, p. 302, and Gazette of India, 18th February, 1888, Pt. I, p. 88; and declared in force in the districts of Hazáribágh, Lohardugga and Manbhoom, pergunnah Dhalbhoom and the Kolhan—see Calcutta Gazette, 16th November, 1887, Pt. I, p. 928, and Gazette of India, 19th idem, Pt. I, p. 582.

For power to confer upon a Subordinate Judge or Munsif in Bengal, North-Western Provinces and Assam the jurisdiction of a Court of Small Causes under this Act, see Act XII of 1887, s. 25.

Ss. 15, 32, 37, 38, 39 and 40 of the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, apply to Courts of Small Causes constituted under this Act—see Act XII of 1887, s. 40.

(Chapter I.—Preliminary. Secs. 3-4. Chapter II.—Constitution of Courts of Small Causes. Secs. 5-6.)

directions given and notifications published under Act No. XI of 1865 (*an Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act.

(3) Any enactment or document referring to Act No. XI of 1865 or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. Nothing in this Act shall be construed to affect—

Savings.

(a) any proceedings before or after decree in any suit instituted before the commencement of this Act; or

(b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of Village Munsifs or Village Pancháyats under the provisions of the Madras Code, or of Village Munsifs under the Dekkhan Agriculturists' Relief Act, 1879; or

XVII of 1879.

XIV of 1882.

(c) any local law or any special law other than the Code of Civil Procedure.

4. In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

Definition.

CHAPTER II.

CONSTITUTION OF COURTS OF SMALL CAUSES.

5. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judicature established in a Presidency-town.

Establishment of Courts of Small Causes.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.

6. (1) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.

Judge.

(Chapter II.—Constitution of Courts of Small Causes. Secs. 7-12.)

(2) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts, as the Local Government directs.

Appoint-
ment of times
of sitting in
certain cir-
cumstances.

7. (1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

Additional
Judge.

8. (1) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

(2) The Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(3) The Judge may withdraw from the Additional Judge any business pending before him.

(4) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

Suspension
and removal
of Judges.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government.

Power to
require two
Judges to
sit as a
bench.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes, or a Judge and an Additional Judge of a Court of Small Causes, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order.

Decision in
case heard by
a bench.

11. (1) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section differ as to a question of law or usage having the force of law or in construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of Chapter XLVI of the Code of Civil Procedure shall apply to the reference.

XIV of 1882.

(2) If they differ on any matter other than a matter specified in sub-section (1), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of sub-section (2), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

Registrar.

12. (1) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.

(Chapter II.—*Constitution of Courts of Small Causes. Secs. 13-14. Chapter III.—Jurisdiction of Courts of Small Causes. Sec. 15.*)

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(5) A Registrar may be suspended or removed from office by the Local Government.

13. Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar, if any, of that Court.

Other ministerial officers.

14. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

Duties of ministerial officers.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

15. (1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

Cognizance of suits by Courts of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature

(Chapter III.—*Jurisdiction of Courts of Small Causes. Sec. 16. Chapter IV.—Practice and Procedure. Secs. 17-19.*)

of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.

Exclusive
jurisdiction
of Courts
of Small
Causes.

16. Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

CHAPTER IV.

PRACTICE AND PROCEDURE.

Applica-
tion of the
Code of
Civil Pro-
cedure.

17. (1) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code, as amended XIV of 1882. by this Act, shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits:

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(2) Where a person has become liable as surety under the proviso to subsection (1), the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

Trial of
suits by
Registrar.

18. (1) Suits cognizable by the Registrar under section 12, sub-sections (2) and (4), shall be tried by him, and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.

(2) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

Admission,
return and
rejection of

19. (1) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also

(Chapter IV.—Practice and Procedure. Secs. 20-21.)

absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it. plaints by Registrar.

(2) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him :

Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

20. (1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorized in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge. Passing of decrees by Registrar on confession.

(2) Where a decree has been passed by the Registrar under sub-section (1), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds and in the same manner as if the decree had been passed by himself.

21. (1) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act. Execution of decrees by Registrar.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (1), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment.

(Chapter IV.—Practice and Procedure. Secs. 22-27. Chapter V.—Supplemental Provisions. Sec. 28.)

Adjournment
of cases by
chief ministerial
officer.

22. When the Judge of a Court of Small Causes is absent and an additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

Return of
plaints in
suits involving
questions
of title.

23. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction. XIV of 1882. XV of 1877.

Appeals from
certain orders
of Courts of
Small Causes.

24. Where an order specified in section 588, clause (29), of the Code of Civil Procedure is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court. XIV of 1882.

Revision of
decrees and
orders of
Courts of
Small Causes.

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

26. [Amendment of the second schedule to the Code of Civil Procedure.] XIV of 1882. Rep. by Act X of 1888, s. 4.

Finality of
decrees and
orders.

27. Save as provided by this Act a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Subordina-
tion of
Courts of
Small Causes.

28. (1) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the High Court, and shall—

(a) keep such registers, books and accounts as the High Court from time to time prescribes, and

(Chapter V.—Supplemental Provisions. Secs. 29-33.)

- (b) comply with such requisitions as may be made by the District Court, the High Court or the Local Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government. Seal.

30. The Local Government may, by order in writing, abolish a Court of Small Causes. Abolition of Courts of Small Causes.

31. (1) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office. Saving of power to appoint Judge of Court of Small Causes to other office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

32. (1) So much of Chapters III and IV as relates to—

- (a) the nature of the suits cognizable by Courts of Small Causes,
- (b) the exclusion of the jurisdiction of other Courts in those suits,
- (c) the practice and procedure of Courts of Small Causes,
- (d) appeal from certain orders of those Courts and revision of cases decided by them, and
- (e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

Application of Act to Courts invested with jurisdiction of Court of Small Causes.

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

33. A Court invested with the jurisdiction of a Court of Small Causes, with Application

(Chapter V.—Supplemental Provisions. Secs. 34-37.)

of Act and
Code to
Court so
invested
as to two
Courts.

Modification
of Code as
so applied.

respect to the exercise of that jurisdiction, and the same Court, with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different Courts.

XIV of 1882.

34. Notwithstanding anything in the last two foregoing sections,—

- (a) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or
- (b) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

XIV of 1882.

Continuance
of proceed-
ings of
abolished
Courts.

35. (1) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

XIV of 1882.

Amendment
of Indian
Limitation
Act.

36. In the third division of the second schedule to the Indian Limitation Act, 1877,—

XV of 1877.

(a) after No. 160 the following shall be inserted, namely:—

“160A. For a review of judgment by a Provincial Court of Small Causes or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction.

Ditto.

The date of the decree or order.”

and (b) in No. 173, the words, figures and letter “No. 160A and” shall be inserted before the word and figures “No. 162”.

Publication
of certain
orders.

37. All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

(The First Schedule.—Enactments repealed. The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.)

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

| Number and year. | Subject or title. | Extent of repeal. |
|----------------------|-----------------------------------|--|
| 1 | 2 | 3 |
| Act XI of 1865 | Mufassal Small Cause Courts Act. | So much as has not been repealed. |
| Act VI of 1871 | Bengal Civil Courts Act. | Section 30. |
| Act III of 1873 | Madras Civil Courts Act. | Section 29, paragraph one. |
| Act XV of 1874 | Laws Local Extent Act. | So much of the first schedule as relates to Acts XI of 1865 and X of 1867. |
| Act XII of 1881 | North-Western Provinces Rent Act. | In section 2, the words and figures "and Act No. XI of 1865, section 52". |
| Regulation I of 1877 | Ajmere Courts Regulation. | Section 33. |

THE SECOND SCHEDULE.

SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

(See section 15.)

- (1) A suit concerning an act or order purporting to be done or made by the Governor General in Council or a Local Government, or by the Governor General or a Governor, or by a Member of the Council of the Governor General or of the Governor of Madras or Bombay, in his official capacity, or concerning an act purporting to be done by any person by order of the Governor General in Council or a Local Government ;
- (2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office ;
- (3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by

(The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.)

- a Court of Wards, or by an officer of a Court of Wards in the execution of his office;
- (4) a suit for the possession of immoveable property or for the recovery of an interest in such property ;
 - (5) a suit for the partition of immoveable property ;
 - (6) a suit by a mortgagee of immoveable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immoveable property, for the redemption of the mortgage ;
 - (7) a suit for the assessment, enhancement, abatement or apportionment of the rent of immoveable property ;
 - (8) a suit for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto ;
 - (9) a suit concerning the liability of land to be assessed to land-revenue ;
 - (10) a suit to restrain waste ;
 - (11) a suit for the determination or enforcement of any other right to or interest in immoveable property ;
 - (12) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive or periodically recurring right to discharge the functions of an office ;
 - (13) a suit to enforce payment of the allowance or fees respectively called *mālikāna* and *hukz*, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immoveable property or in an hereditary office or in a shrine or other religious institution ;
 - (14) a suit to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1870, the whole or any part of the compensation ; X of 1870.
 - (15) a suit for the specific performance or rescission of a contract ;
 - (16) a suit for the rectification or cancellation of an instrument ;
 - (17) a suit to obtain an injunction ;
 - (18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution ;
 - (19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure ; XIV of 1882.

(The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.

- (20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure;
- (21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease or other transfer by a Court or a revenue-authority or by a guardian;
- (22) a suit for property which the plaintiff has conveyed while insane;
- (23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity;
- (24) a suit to contest an award;
- (25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India;
- (26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure;
- (27) a suit under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets;
- (28) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate;
- (29) a suit—
 - (a) for a dissolution of partnership or for the winding-up of the business of a partnership after its dissolution;
 - (b) for an account of partnership-transactions; or
 - (c) for a balance of partnership-account, unless the balance has been struck by the parties or their agents;
- (30) a suit for an account of property and for its due administration under decree;
- (31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant;
- (32) a suit for a general average loss or for salvage;
- (33) a suit for compensation in respect of collision between ships;
- (34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy;

XIV of 1882.

X of 1865.

V of 1881.

(The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.)

(35) a suit for compensation—

(a) for loss occasioned by the death of a person caused by actionable wrong ;

(b) for wrongful arrest, restraint or confinement ;

(c) for malicious prosecution ;

(d) for libel ;

(e) for slander ;

(f) for adultery or seduction ;

(g) for breach of contract of betrothal or promise of marriage ;

(h) for inducing a person to break a contract made with the plaintiff ;

(i) for obstruction of an easement or diversion of a watercourse ;

(j) for illegal, improper or excessive distress or attachment ;

(k) for improper arrest under Chapter XXXIV of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV of that Code ; or

(l) for injury to the person in any case not specified in the foregoing sub-clauses of this clause ;

(36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'-wajjal*) dower ;

(37) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor, or for a divorce ;

(38) a suit relating to maintenance ;

(39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village-community or to his heir or other successor in title ;

(40) a suit for profits payable by the representative of a village-community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums ;

(41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family ;

(42) a suit by one of several joint mortgagors of immoveable property for contribution in respect of money paid by him for the redemption of the mortgaged property ;

- (43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land-revenue or of a demand recoverable as an arrear of land-revenue;
- (44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.
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THE NATIVE PASSENGER SHIPS ACT, 1887.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Title.
 2. Extent and application.
 3. Commencement.
 4. Repeal.
 5. Definitions.
-

CHAPTER II.

RULES FOR ALL VOYAGES.

6. Ships to sail only from places appointed by the Government.
 7. Notice to be given of day of sailing.
 8. Power to enter on and inspect ship.
 9. Ship not to sail without two certificates.
 10. Contents of certificate A.
 11. Contents of certificate B.
 12. Grant of certificates.
 13. Substitute for certificate A.
 14. Survey of ship.
 15. Discretion as to grant of certificate.
 16. Copy of certificates to be exhibited.
 17. Supply by passengers of their own food.
-

CHAPTER III.

RULES FOR SHORT VOYAGES.

18. Space to be available for passengers.
19. Ship taking additional passengers at intermediate place.
20. Deaths on voyage.

CHAPTER IV.

RULES FOR LONG VOYAGES.

SECTIONS.

21. Space to be available for passengers.
 22. Statements concerning passengers.
 23. Deaths on voyage.
 24. Ship taking additional passengers at intermediate place.
 25. Certain ships to be propelled by steam.
 26. Certain ships to carry medical officer.
 27. Ships carrying passengers to or from port in Red Sea to touch at Aden.
 28. Bill of health at Aden.
 29. Bond where ship clears for port in Red Sea.
 30. Power for Local Government to direct medical inspection of passengers.
- -

CHAPTER V.

PENALTIES.

31. Penalty for ship unlawfully departing or receiving passengers on board.
32. Penalty for opposing entry on or inspection of ships.
33. Penalty for not exhibiting copy of certificates.
34. Penalty for not complying with requirements as to statements concerning passengers and certain other matters.
35. Penalty for fraudulent alteration in ship after certificate obtained.
36. Penalty for failing to supply passengers with prescribed provisions.
37. Penalty for having excessive number of passengers on board.
38. Penalty for bringing passengers from foreign port in excess of authorized number.
39. Penalty for landing passenger at a place other than that at which he has contracted to land.
40. Penalty for making voyage in contravention of contract with passengers.
41. Penalty on master and owner of certain ships not propelled by steam.
42. Penalty on master of certain ships sailing without medical officer.
43. Penalty for not obtaining bill of health at Aden.
44. Penalty on master or medical officer of certain ships disobeying rules.
45. Penalty on master receiving passenger in contravention of section 30.

Procedure.

46. Adjudication of offences and levy of fine by distress on ship.
47. Jurisdiction.
48. Authority to institute proceedings for penalties.
49. Application of fines.
50. Depositions of absent witnesses.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

SECTIONS.

51. Information to be sent to ports of embarkation and discharge.
52. Report of Consul.
53. Power for Governor General in Council and Local Government to make rules.
54. Appointment of officers.
55. Power to declare what shall be deemed "seasons of fair weather" and "long voyages".
56. Power to prescribe space to be available for passengers.
57. Power to exempt ship from provisions of Act.

SCHEDULE.—ENACTMENTS REPEALED.

ACT No. X OF 1887.

Received the Governor General's assent on the 24th February, 1887.

An Act to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to native passenger ships; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

- | | |
|---|-------------------------|
| 1. This Act may be called the Native Passenger Ships Act, 1887. | Title. |
| 2. (1) It extends to the whole of British India, and applies— | Extent and application. |
| (a) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty; | |
| (b) to all native Indian subjects of Her Majesty without and beyond British India; and, | |
| (c) subject to the exceptions mentioned in sub-section (2), to ships carrying as passengers more than thirty natives of Asia or Africa. | |
| (2) But it does not apply— | |
| (i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or | |
| (ii) to any other ship for the time being in the service of Her Majesty, or | |
| (iii) to any ship-of-war belonging to any Foreign Prince or State, or | |
| (iv) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa, or | |

(Chapter I.—Preliminary. Secs. 3-5.)

(v) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India.

(5) Notwithstanding anything in sub-sections (1) and (2), the Local Government may, with the previous sanction of the Governor General in Council, declare all or any of the provisions of this Act to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such natives.

Commence-
ment.

3. This Act shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints.^a

Repeal.

4. (1) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(2) But all ports, places and officers appointed; rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act; and

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

5. In this Act, unless there is something repugnant in the subject or context,—

(1) “ship” means a ship to which this Act applies:

(2) “passenger” means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age; and, in the computation of passengers for any of the purposes of this Act, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger:

(3) “long voyage” means, subject to the provisions of this Act, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port:

(4) “short voyage” means, subject to the provisions of this Act, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port:

(5) “voyage”, when used without the prefix “long” or “short”, means

^aThe Act came into force on 1st June, 1887—see Gazette of India, 28th May, 1887, Pt. I, p. 250.

(Chapter II.—Rules for all Voyages. Secs. 6-11.)

the whole distance between the ship's port or place of departure and her final port or place of arrival :

(6) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Act applies : and

(7) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class.

CHAPTER II.

RULES FOR ALL VOYAGES.

6. (1) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place within British India other than a port or place appointed in this behalf by the Local Government.

Ships to sail only from places appointed by the Government.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

7. (1) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry passengers, and of her destination, and of the proposed time of sailing.

Notice to be given of day of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

Power to enter on and inspect ship.

9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

Ship not to sail without two certificates.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

Contents of certificate A.

11. The second of the certificates (hereinafter called "certificate B") shall state—

Contents of certificate B.

(a) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch ;

(b) that she has the proper complement of officers and seamen ;

(Chapter II.—Rules for all Voyages. Secs. 12-14.)

- (c) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules;
- (d) that the master holds certificate A;
- (e) if the ship is to make a short voyage in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;
- (f) if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in accordance with the rules under this Act; and
- (g) such other particulars, if any, as may be prescribed by those rules.

Grant of
certificates.

12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

Sub-titute
for certificate
A.

13. Where the master of a ship produces to that officer either of the following certificates, namely :—

- (a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or
- (b) a certificate granted under the authority of a British Indian Government, on a date not more than one year before the proposed day of sailing, and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

Survey of
ship.

14. (1) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make :

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (a) or clause (b), to be surveyed unless by reason of the ship having met with damage or having undergone alterations, or on other reason-

(Chapter II.—Rules for all Voyages. Secs. 15-17. Chapter III.—Rules for Short Voyages. Sec. 18.)

able ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated for the voyage, the expense of the survey shall be paid by the Local Government.

15. (1) The officer authorized to grant a certificate under this Act in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

Discretion as to grant of certificate.

(2) But save as aforesaid, and subject to the provisions of sub-section (3), it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

16. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Copy of certificates to be exhibited.

17. If an officer appointed in this behalf by the Local Government is satisfied that a passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

Supply by passengers of their own food.

CHAPTER III.

RULES FOR SHORT VOYAGES.

18. (1) For seasons of fair weather a ship performing a short voyage shall, subject to the provisions of this Act, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

Space to be available for passengers.

(Chapter III.—Rules for Short Voyages. Secs. 19-20.)

(2) For seasons of foul weather a ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

Ship taking
additional
passengers at
intermediate
place.

19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master shall obtain from the officer appointed at that port or place under section 7 a supplementary certificate stating—

- (a) the number of passengers so taken on board, and
- (b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules :

Provided that if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

Deaths
on voyage.

20. When the ship reaches her final port or place of arrival, the master shall notify to such officer as the Governor General in Council appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

CHAPTER IV.

RULES FOR LONG VOYAGES.

21. (1) A ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every passenger.

Space to be available for passengers.

(2) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers, and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Statements concerning passengers.

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place at which it may be intended to land passengers, and, before any passengers leave the ship, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 7.

Deaths on voyage.

24. (1) In either of the following cases, namely :—

- (a) if after the ship has departed or proceeded on a long voyage any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or
- (b) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional passengers at any place beyond British India,

Ship taking additional passengers at intermediate place.

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(2) All the foregoing provisions of this Act with respect to certificate B

(Chapter IV.—Rules for Long Voyages. Secs. 25-30.)

and statements concerning passengers shall be applicable to any certificate granted or statement made under this section.

Certain ships
to be pro-
pelled by
steam.

25. A ship carrying passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships
to carry
medical offi-
cer.

26. A ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in accordance with the rules under this Act.

Ships carry-
ing passen-
gers to or
from port in
Red Sea to
touch at
Aden.

27. A ship carrying passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

Bill of health
at Aden.

28. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than the number allowed for the ship by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

Bond where
ship clears
for port in
Red Sea.

29. In the case of a ship carrying passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(a) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers, and

(b) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships carrying passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Act.

Power for
Local Gov-
ernment to
direct medi-
cal inspection
of passen-
gers.

30. (1) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

(Chapter V.—Penalties. Secs. 31-34.)

(2) If in the opinion of the officer making an inspection under this section a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

CHAPTER V.

PENALTIES.

31. If a ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger carried in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act:

Penalty for ship unlawfully departing or receiving passengers on board.

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

32. If a person impedes or refuses to allow the entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for opposing entry on or inspection of ships.

33. If a master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty for not exhibiting copy of certificates.

34. If a master fails to comply with any of the requirements of section 22 or section 23, as to the statements concerning passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 19, or to report deaths as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

(Chapter V.—Penalties. Secs. 35-39.)

in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for fraudulent alteration in ship after certificate obtained.

35. If a master, after having obtained any of the certificates mentioned in section 9, section 19 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for failing to supply passengers with prescribed provisions.

36. If a master without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

Penalty for having excessive number of passengers on board.

37. (1) If a ship carrying passengers to or from any port or place in British India has on board a number of passengers which is greater than the number allowed for the ship by or under this Act, the master and owner shall, for every passenger over and above that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger :

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the Local Government may cause all passengers over and above the number allowed by or under this Act to disembark and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

Penalty for bringing passengers from foreign port in excess of authorized number.

38. If a ship carrying passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Act or than the number allowed by the license or certificate, if any, granted in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that number, be each punished with fine which may extend to twenty rupees.

Penalty for landing passenger at a

39. If the master of a ship lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land,

(Chapter V.—Penalties. Secs. 40-45.)

unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

place other than that at which he has contracted to land.

40. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for making voyage in contravention of contract with passengers.

41. If a ship carrying passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 25, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on master and owner of certain ships not propelled by steam.

42. If a ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea has not on board a medical officer as required by section 26, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

43. If in the case of a ship to which section 27 applies the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for not obtaining bill of health at Aden.

44. If in the case of any such ship as is referred to in the last foregoing section the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees for each person so received, or with imprisonment which may extend to three months, or with both.

Penalty on master receiving passenger in contravention of section 30.

(Chapter V.—Penalties. Secs. 46-50.)

Procedure.

Adjudication
of offences,
and levy of
fine by dis-
tress on ship.

46. (1) Offences against this Act shall be punishable by a Magistrate.

(2) If the person on whom a fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Jurisdiction.

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Authority to
institute pro-
ceedings for
penalties.

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Application
of fines.

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

Depositions
of absent
witnesses.

50. (1) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted :

Provided that the deposition shall not be admissible unless—

- (a) it is authenticated by the signature of the Justice, Magistrate or consular officer ;
- (b) it was made in the presence of the person accused ; and
- (c) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(2) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and in

(Chapter VI.—Supplemental Provisions. Secs. 51-53.)

any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

51. (1) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a ship carrying passengers touches or arrives, shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship, and the passengers carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the passengers or any of them embarked or are to be discharged.

Information to be sent to ports of embarkation and discharge.

(2) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Act applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

52. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (1) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

Report of Consul.

53. (1) The Governor General in Council may make rules consistent with this Act to regulate, in the case of any ship or class of ships, all or any of the following matters:—

Power for Governor General in Council and Local Government to make rules.

- (a) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water;
- (b) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;
- (c) the licensing and appointment of medical officers in cases where they are required by this Act to be carried;
- (d) the boats, anchors and cables to be provided on board;

(Chapter VI.—Supplemental Provisions. Secs. 54-56)

- (e) the instruments for purposes of navigation to be supplied ;
- (f) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires ;
- (g) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys ;
- (h) the functions of the master, medical officer (if any) and other officers of the ship during the voyage ;
- (i) the access of between-decks passengers to the upper deck ; and
- (j) generally, to carry out the purposes of this Act.

(2) The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act to regulate, in the case of any ship or class of ships,—

- (a) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf ; and
- (b) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(3) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees forevery day after the first during which the breach continues.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

Appointment
of officers.

54. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Power to
declare what
shall be
deemed
“seasons of
fair weather”
and “long
voyages”.

55. The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Act, “seasons of fair weather” and “seasons of foul weather”, and, for sailing-ships and steam-ships respectively, a “long voyage” and a “short voyage”.

Power to
prescribe
space to be
available for
passengers.

56. The Governor General in Council may by order prescribe in the case of any ship or class of ships and for all or any voyages the number of superficial or of cubic feet of space to be available for passengers ; and the order shall be alternative to, or override, as the Governor General in Council may

(Chapter VI.—Supplemental Provisions. Sec. 57. Schedule.—Enactments repealed.)

direct, the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

57. (1) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

Power to
exempt ship
from provi-
sions of Act.

(2) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

SCHEDULE.

ENACTMENTS REPEALED.

(See section 4.)

| Number and year. | Title. | Extent of repeal. |
|--------------------|------------------------------------|-------------------|
| VIII of 1876 . . . | Native Passenger Ships Act, 1876 . | The whole. |
| XVII of 1883 . . . | Native Passenger Ships Act, 1883 . | The whole. |
| VII of 1884 . . . | Indian Steam-ships Act, 1884 . . | Section 41. |

ACT No. XIII OF 1887.

Received the Governor General's assent on the 11th March, 1887.

An Act to provide for the protection of person and property from the risks incident to the supply and use of electricity for lighting and other purposes.

WHEREAS it is expedient to control the supply and use of electricity for lighting and other purposes ;

And whereas in the existing circumstances of the supply and use of electricity in India the exercise of that control by means of licenses or other like methods may be deferred, and it will suffice for the present to provide for the protection of person and property from the risks incident to such supply and use ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Electricity Act, 1887.

Title, extent
and com-
mencement.

Definitions.

- (2) It shall extend to the whole of British India; and
 (3) It shall come into force on the first day of July, 1887.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) “electricity” includes galvanism, magnetism, magneto-electricity and electro-magnetism:

(2) expressions defined in the Indian Telegraph Act, 1885, have the meanings assigned to them in that Act: XIII of 1885.

(3) “purpose” includes any purpose except the transmission of a message: and

(4) “vessel” includes anything used for the conveyance by water of human beings or of property.

Notice of
intention to
supply or
use electri-
city.

3. In either of the following cases, namely:—

(a) if a person intends to undertake the business of supplying electricity,
or

(b) if a person intends to use electricity for any public purpose, or in any public place, or in any place where there is likelihood of the public being affected, or in a place in which one hundred or more persons are likely to be assembled, or in a place which is a factory within the meaning of the Indian Factories Act, 1881,

XV of 1881.

the person shall, one week at least before commencing the supply or use, give notice of his intention to the District Magistrate or, in a presidency-town, to the Commissioner of Police.

Power to
make rules.

4. (1) The Governor General in Council may make such rules as he thinks expedient—

- (a) for the protection of person and property from injury by reason of contact with, or the proximity of, appliances or apparatus used in the generation or supply of electricity, and
 (b) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

(2) The rules may, among other matters, authorize, or empower a Local Government or other authority to authorize, any officer, either by name or in virtue of his office, to enter, inspect and examine any place, carriage or vessel in which the officer has reason to believe any such appliances or apparatus to be.

(3) Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this section on the Governor General in Council, and shall be of the same force as if enacted by this Act.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

5. If a person undertakes the business of supplying electricity, or uses electricity for any such purpose or in any such place as is referred to in section 3, without giving the notice required by that section, or infringes any rule under section 4, or obstructs an officer in the exercise of his authority under any such rule to enter, inspect and examine any place, carriage or vessel, he shall be punished with fine which may extend to five hundred rupees, and, if he continues so to supply or use electricity or infringe the rule or obstruct the officer, after notice in writing to desist from so doing has been given to him by the District Magistrate or, in a presidency-town, by the Commissioner of Police, he shall be further punished with fine which may extend to one hundred rupees for every day during which such supply, use, infringement or obstruction continues. Penalties.

6. The Governor General in Council may, for the placing of appliances and apparatus for the supply of electricity for any purpose of the Government, confer upon any public officer any of the powers which the telegraph-authority possesses under the Indian Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained. Exercise for the purposes of the Government of the powers of the telegraph-authority.

XIII of 1885.

THE INDIAN MARINE ACT, 1887.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Title and commencement.
2. Definitions.
3. Procedure on enrolment.
4. General power to make rules.

CHAPTER II.

OFFENCES AND PUNISHMENTS.

Misconduct in the Presence of the Enemy.

5. Misconduct of commanding officer in action.

SECTIONS.

6. Not pursuing the enemy or not assisting a friend in view.
7. Delaying or discouraging action or service, or deserting post or sleeping on watch.
8. Misconduct of subordinate officers and men in action.

Communications with the Enemy.

9. Corresponding, &c., with the enemy.
10. Improper communication with the enemy.

Neglect of Duty.

11. Neglect of duty.

Mutiny.

12. Mutiny accompanied by violence.
13. Mutiny not accompanied by violence.
14. Inciting to mutiny.
15. Mutinous assembly or uttering seditious words.
16. Concealing traitorous, mutinous or seditious practice, design or words.
17. Striking or using violence to superior officer.

Insubordination.

18. Disobedience or using threatening language to superior officer.

Desertion and Absence without Leave.

19. Desertion.
20. Inducing any person to desert.
21. Breaking out of vessel.
22. Absence without leave.

Miscellaneous Offences.

23. Drunkenness on board ship or on duty.
24. Cruelty or misconduct by officer.
25. Suffering vessel to be lost or imperilled.
26. Unlawful taking of goods on board.
27. Embezzling public stores.
28. Arson.
29. Making false documents.
30. Malingering or misconduct in hospital.
31. Creating disturbance on account of complaints.
32. Offences to the prejudice of good order and discipline not otherwise specified.
33. Not assisting in arresting offenders.
34. Contempt of Court.
35. False evidence.

Offences punishable by ordinary Law.

36. Offences punishable by ordinary law.

Punishments.

SECTIONS.

37. Schedule of punishments.
38. Regulations as to the infliction of punishments.
39. Scale of punishments.
40. Limitation of time for trials.

CHAPTER III.

JURISDICTION AND POWERS.

41. Offences cognizable by Criminal Courts and Indian Marine Courts respectively.
42. Power to pass sentences.
43. Jurisdiction and powers of commanding officers.
44. Place of trial.
45. Jurisdiction over person ceasing to be subject to Act.
46. Case of person charged with an offence cognizable by a Criminal Court.
47. Case of person charged with an offence cognizable by an Indian Marine Court or commanding officer.
48. Conflict of jurisdiction.
49. Previous conviction or acquittal.
50. Application of Act XV of 1869 to Indian Marine Courts.
51. Powers of Governor General in Council in respect of sentences.

CHAPTER IV.

INDIAN MARINE COURTS.

Constitution of the Court.

52. Power to convene Indian Marine Court.
53. Composition of Indian Marine Court.

Procedure at the Trial.

54. Place of sitting of Indian Marine Court.
55. Challenge.
56. Oaths.
57. Trial of officers and crew by one Court.
58. Dissolution of Court on illness of prisoner.
59. Re-trial of prisoner after dissolution of Court.
60. Clearing Court.
61. Decision of Court.
62. Summoning witnesses.
63. Summary punishment of certain contempts.

Confirmation of Findings and Sentences.

64. Submission of proceedings to confirming authority.

SECTIONS.

- 65. Confirmation of findings and sentences.
- 66. Confirming authority.
- 67. Powers of confirming authority.

Evidence.

- 68. Law of evidence applicable.

Preservation of Proceedings.

- 69. Preservation of Indian Marine Court proceedings and grant of copies.

Power to make Rules respecting Procedure.

- 70. Power to make rules respecting procedure.

CHAPTER V.

SUPPLEMENTAL CRIMINAL PROVISIONS.

Procedure of Criminal Courts beyond British India.

- 71. Procedure of Criminal Courts beyond British India.
- 72. Arrest of offenders.
- 73. Power of commanding officer.

Execution of Sentences of Indian Marine Courts and Commanding Officers.

- 74. Commencement of sentences of imprisonment.
- 75. Execution of such sentences.

Savings.

- 76. Saving of authority of ordinary Courts.
- 77. Minor punishments.

Amendment of Acts.

- 78. Amendment of Act X of 1882, section 51 (Arrest of Deserters).
- 79. Amendments of Chapter VII of the Penal Code (Offences relating to Army and Navy).

CHAPTER VI.

PROVISIONS OF CIVIL LAW.

Exemption from Process.

- 80. Exemption from arrest for debt.
- 81. Property which cannot be attached.

Property of Deceased Persons and Deserters.

- 82. Disposal of property of deceased persons and deserters.

ACT No. XIV OF 1887.

Received the Governor General's assent on the 30th June, 1887.

An Act for the better administration of Her Majesty's Indian Marine Service.

47 & 48 Vict.,
c. 38. WHEREAS by the Indian Marine Service Act, 1884, it is, among other things, enacted that the Governor General of India in Council shall have
24 & 25 Vict.,
c. 67. power, subject to the provisions contained in the Indian Councils Act, 1861, as amended by subsequent Acts, at meetings for the purpose of making laws and regulations, to make laws for all persons employed or serving in, or belonging to, Her Majesty's Indian Marine Service :

Provided that—

- (a) a law made under that power shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, which are defined by the said Indian Marine Service Act to include the high seas between the Cape of Good Hope on the west and the Straits of Magellan on the east, and all territorial waters between those limits ; and
- (b) the punishments imposed by any such law for offences shall be similar in character to, and shall not be in excess of, the punishments which may at the time of making the law be imposed for similar offences under the Acts relating to Her Majesty's Navy, except that in the case of persons other than Europeans or Americans imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude ;

And whereas it is further provided by the said Indian Marine Service Act that subject to the provisions of that Act a law made thereunder shall be of the same force and effect as an Act of Parliament and shall be taken notice of by all Courts of Justice in the same manner as if it were a Public Act of Parliament ;

And whereas in pursuance of the power thus conferred and of all other powers vested in the Governor General in Council in this behalf it is expedient to make such laws as are mentioned in the said Indian Marine Service Act and to make provision in other particulars for the proper regulation of, and otherwise in relation to, the Indian Marine Service ;

And whereas the Secretary of State for India in Council has given his previous approval to the passing of this Act ;

(Chapter I.—Preliminary. Secs. 1-2.)

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Title and
commence-
ment.

1. (1) This Act may be called the Indian Marine Act, 1887 ; and

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.*

Definitions.

2. (1) In this Act, unless there is something repugnant in the subject or context,—

(a) “ person subject to this Act ” means a person who is employed or serves in, or belongs to, the Indian Marine Service, and who, if he is not a gazetted officer, has been enrolled in that service in the manner provided by this Act :

(b) “ gazetted officer ” means a person who by virtue of his letter of appointment is holding a position in the Indian Marine Service as—

Commander,
First grade officer,
Second grade officer,
Third grade officer,

Chief engineer,
Engineer,
Assistant engineer, or
Clerk :

(c) “ warrant-officer ” means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Gunner,
Apothecary,
Assistant apothecary,
Assistant clerk,

Engine-driver, first class,
Carpenter,
Hospital assistant, or
General mess steward :

(d) “ petty officer ” means a person who by virtue of his appointment is holding a position in the Indian Marine Service as—

Chief syrang, first class,
Chief syrang, second class,
Ship's steward,
Engine-driver, second class,
Cook on a salary of not less than
fifty rupees per mensem,
General mess butler,
Syrang of lascars, first class,
Syrang of lascars, second class,

Tindal of lascars, first class,
Tindal of lascars, second class,
Tindal of stokers, first class,
Tindal of stokers, second class,
Kassaub, first class,
Kassaub, second class, or
Cook on a salary of less than fifty
rupees per mensem :

(e) “ superior officer ”, used with reference to an officer of a rank mentioned in clause (b), clause (c) or clause (d) of this sub-section, means an

* The Act came into force on 15th October, 1887—see Gazette of India, 8th October, 1887, Pt. I, p. 500.

(Chapter I.—Preliminary. Secs. 3-4.)

officer of a rank mentioned before his in any of those clauses, and, used with reference to any other person subject to this Act, means an officer mentioned in any of those clauses :

- (f) "commanding officer" means the officer in command of a vessel, whether by special appointment or by the rules or customs of the service, and includes, as regards any persons subject to this Act who are employed otherwise than on board the vessel to which they belong, such officer, if any, as the Governor General in Council appoints, instead of the commanding officer of that vessel, to discharge the functions of commanding officer with respect to those persons :
- (g) "enemy" includes a pirate or rebel :
- (h) "Indian Marine Court" means an Indian Marine Court held under this Act :
- (i) "Criminal Court" means a Court having ordinary criminal jurisdiction in British India or such a Court established elsewhere by the authority of the Governor General in Council : and
- (j) "prescribed" means prescribed by rules made by the Governor General in Council.

(2)^a The Governor General in Council may, by notification in the Gazette of India, vary any of the definitions in clauses (b), (c) and (d) of sub-section (1) as occasion may appear to him to require, and the references to those clauses in the definition of the expression "superior officer" in clause (e) of that sub-section shall be construed to be references to them as varied by any notification published under this sub-section and for the time being in force.

3. (1) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on board ship or on shore, and the commanding or other prescribed officer shall then—

Procedure
on enrol-
ment.

- (a) cause to be read and explained to him the rules of the service,
 - (b) administer to him an oath of allegiance, and
 - (c) cause him to sign a roll.
- (2) The rules, oath and roll shall be in prescribed forms.

4.^b In addition to any other rules which may be made under this Act, the Governor General in Council may, by notification in the Gazette of India, make rules consistent with this Act for the guidance of officers, whether military, Indian Marine, civil or political, in all matters connected with its enforcement.

General
power to
make rule.

^a Sub-s. (2) of s. 3 has been substituted by Act XVII of 1888—see *infra*, p. 247.

^b For rules under section 4, see Gazette of India, 29th October, 1887, Pt. I, p. 551.

(Chapter II.—Offences and Punishments. Secs. 5-8)

CHAPTER II.

OFFENCES AND PUNISHMENTS.

Misconduct in the Presence of the Enemy.

Misconduct
of command-
ing officer in
action.

5. If a commanding officer—

- (i) upon signal of battle, or on sight of a vessel of an enemy which it is his duty to engage, does not use his utmost exertion to bring his vessel into action, or
- (ii) does not during an action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously, or
- (iii) when capable of making a successful defence, surrenders his vessel to the enemy, or
- (iv) in time of action improperly withdraws from the fight, he shall,—
 - (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
 - (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Not pursuing
the enemy
or not assist-
ing a friend
in view.

6. If any officer subject to this Act—

- (i) forbears to pursue the chase of any enemy beaten or flying, or
- (ii) does not relieve and assist a known friend in view to the utmost of his power, or
- (iii) improperly forsakes his station, he shall,—
 - (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
 - (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Delaying or
discouraging
action or
service, or de-
serting post
or sleeping
on watch.

7. If any person subject to this Act,—

- (i) when any action or service is commanded, presumes to delay or discourage the action or service upon any pretence whatever, or
- (ii) in the presence or vicinity of the enemy deserts his post or sleeps upon his watch,

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Misconduct
of subordi-
nate officers

8. If any person subject to this Act, other than a commanding officer, does not, when ordered to prepare for action, or during an action, use his

(Chapter II.—Offences and Punishments. Secs. 9-12.)

utmost exertion to carry the orders of his superior officer into execution, he shall,— and men in action.

- (a) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
- (b) if he has acted from negligence, or through other default, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Communications with the Enemy.

9. If any person subject to this Act—

- (i) treacherously holds correspondence with or gives intelligence to the enemy, or
- (ii) fails to make known to the proper authorities any information which he may have received from the enemy, or
- (iii) relieves the enemy with any supplies,

Corresponding, &c., with the enemy.

he shall suffer penal servitude or such other punishment as is hereinafter mentioned.

10. If any person subject to this Act holds, without any treacherous intention, any improper communication with the enemy, he shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Improper communication with the enemy.

Neglect of Duty.

11. If a person subject to this Act deserts his post or sleeps upon his watch, or negligently performs the duty imposed on him, he shall suffer imprisonment or such other punishment as is hereinafter mentioned. Neglect of duty.

Mutiny.

12. Where a mutiny is accompanied by violence, a person subject to this Act who joins therein shall suffer death or such other punishment as is hereinafter mentioned ; and

Mutiny accompanied by violence.

a person subject to this Act who does not use his utmost exertions to suppress the mutiny shall,—

- (a) if he has acted traitorously, suffer death or such other punishment as is hereinafter mentioned ;
- (b) if he has acted from cowardice, suffer penal servitude or such other punishment as is hereinafter mentioned ;
- (c) if he has acted from negligence, be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

(Chapter II.—Offences and Punishments. Secs. 13-19.)

Mutiny not
accompanied
by violence.

13. Where a mutiny is not accompanied by violence, a ringleader thereof, being a person subject to this Act, shall suffer death or such other punishment as is hereinafter mentioned ; and all other persons subject to this Act who join in the mutiny, or do not use their utmost exertions to suppress it, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Inciting to
mutiny.

14. A person subject to this Act who endeavours to seduce any other person subject to this Act from his duty or allegiance to Her Majesty, or endeavours to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

Mutinous
assembly or
uttering
seditious
words.

15. A person subject to this Act who makes or endeavours to make any mutinous assembly, or leads or incites any other person to join in any mutinous assembly, or utters any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Concealing
traitorous,
mutinous or
seditious
practice,
design or
words.

16. A person subject to this Act who wilfully conceals any traitorous or mutinous practice or design, or any seditious or mutinous words spoken against Her Majesty, or any practice, design or words tending to the hindrance of the service, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Striking or
using vio-
lence to
superior
officer.

17. A person subject to this Act who strikes or attempts to strike, or uses or attempts to use any violence against, his superior officer, being in the execution of his office, or otherwise, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Insubordination.

Disobedience
or using
threatening
language to
superior
officer.

18. A person subject to this Act who wilfully disobeys any lawful command of his superior officer, or uses threatening or insulting language, or behaves with contempt, to his superior officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Desertion and Absence without Leave.

Desertion .

19. A person subject to this Act who—

- (i) absents himself from his vessel or from the place where his duty requires him to be, with the intention of not returning to that vessel or place ; or
- (ii) at any time and under any circumstances, when absent from his vessel or place of duty, does any act which shows that he has an intention of not returning to that vessel or place ;

shall be deemed to have deserted, and shall suffer penal servitude or such other punishment as is hereinafter mentioned ;

(Chapter II.—Offences and Punishments. Secs. 20-26.)

and in every such case he shall forfeit all pay, bounty, salvage, prize-money and allowances which may have been earned by him, and all annuities, pensions, gratuities, medals and decorations which may have been granted to him, and also all clothes and effects which he may have left on board the vessel or at the place from which he has deserted, unless it is otherwise directed by the Court by which he is tried or by the Governor General in Council.

20. A person subject to this Act who endeavours to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned. Inducing any person to desert.

21. A person subject to this Act who, without being guilty of desertion, improperly leaves his vessel or place of duty shall suffer imprisonment or such other punishment as is hereinafter mentioned. Breaking out of vessel.

22. A person subject to this Act who, without being guilty of desertion or of improperly leaving his vessel or place of duty, is absent without leave shall suffer imprisonment for any period not exceeding ten weeks or such other punishment as the circumstances of the case may require. Absence without leave.

Miscellaneous Offences.

23. A person subject to this Act who is guilty of any drunkenness on board ship or on duty shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned. Drunkenness on board ship or on duty.

24. An officer subject to this Act who is guilty of cruelty, or of any scandalous or fraudulent conduct, or of any other conduct unbecoming the character of an officer, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned. Cruelty or misconduct by officer.

25. A person subject to this Act who designedly or negligently, or by any default, loses, strands or hazards, or suffers to be lost, stranded or hazarded, any vessel of the Indian Marine Service, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned. Suffering vessel to be lost or imperilled.

26. An officer in command of an Indian Marine vessel who receives on board, or permits to be received on board, the vessel any goods or merchandise whatsoever, other than for the sole use of the vessel, except gold, silver or jewels, and except goods and merchandise, belonging to any merchant or on board any vessel which may be shipwrecked or in imminent danger either on the sea or in some port, creek, harbour or river, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of Unlawful taking of goods on board.

(Chapter II.—Offences and Punishments. Secs. 27-32.)

the Government or his superior officer, shall be dismissed from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Embezzling
public stores.

27. A person subject to this Act who wastefully expends, embezzles or fraudulently buys, sells or receives any ammunition, provisions or other public stores, or knowingly permits any such wasteful expenditure, embezzlement or fraudulent purchase, sale or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Arson.

28. A person subject to this Act who unlawfully sets fire to any dockyard, victualling yard, steam-factory yard, arsenal, magazine, building or stores, or to any ship, boat or other craft or furniture thereunto belonging, not being the property of an enemy, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Making false
documents.

29. A person subject to this Act who knowingly makes or signs a false muster or record or other official document, or who commands, counsels or procures the making or signing thereof, or who aids or abets any other person in the making or signing thereof, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned.

Malingering
or misconduct
in hospital.

30. A person subject to this Act who wilfully does any act or wilfully disobeys any order, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity or to delay his cure, or who feigns any disease, infirmity or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Creating dis-
turbance on
account of
complaints.

31. A person subject to this Act who has any cause of complaint, either upon the ground of the unwholesomeness of the victuals or upon any other ground, shall quietly make the same known to his commanding officer, and that officer shall inquire into the complaint and shall, as far as he is able, cause the same to be presently remedied, or shall report the case to the Director of Marine; and any person subject to this Act who, upon any pretence whatever, attempts to stir up any disturbance on any such ground shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Offences to
the prejudice
of good order
and discipline
not otherwise
specified.

32. A person subject to this Act who is guilty of any act, disorder or neglect, to the prejudice of good order and discipline, not hereinbefore specified, shall be dismissed with disgrace from the Indian Marine Service or suffer such other punishment as is hereinafter mentioned:

Provided that, if such act, disorder or neglect constitutes an offence punishable under the law of British India with imprisonment for a term which

(Chapter II.—Offences and Punishments. Secs. 33-37.)

may exceed seven years, the person guilty thereof shall not be tried under this Act as for an offence punishable under this section.

33. A person subject to this Act who does not use his utmost exertion to detect, arrest and bring to punishment all offenders against this Act, and does not assist the officers appointed for that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned. Not assisting in arresting offenders.

34. A person subject to this Act, who, being duly summoned or ordered to attend as a witness before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, or to produce any document in his power or control before such a Court or officer, refuses or neglects to attend to give his evidence upon oath or to produce the document, or behaves with contempt to the Court or officer, shall suffer imprisonment which may extend to three months in the case of such refusal or neglect and to one month in the case of such contempt. Contempt of Court.

35. A person subject to this Act who, when examined on oath before an Indian Marine Court or a commanding officer exercising jurisdiction under this Act, intentionally gives false evidence, shall suffer imprisonment for a term which may extend to seven years. False evidence.

Offences punishable by Ordinary Law.

36. If a person subject to this Act is guilty of any criminal offence which if committed in British India would be punishable by the law of British India, he shall, subject to the other provisions of this Act, be liable to the same punishment as might for the time being be awarded in British India by any ordinary criminal tribunal competent to try him if the offence had been committed in British India : Offences punishable by ordinary law.

47 & 48 Vict.,
c. 38.

Provided that, except as authorized by the Indian Marine Service Act, 1884, and by this Act, the punishment awarded for the offence shall not be dissimilar in character to or in excess of the punishment which may at the time of the passing of this Act be imposed for a similar offence under the Acts relating to Her Majesty's Navy.

Punishments.

37. (1) The following punishments may be inflicted under this Act :—

Schedule of
punishments.

- (a) death ;
- (b) penal servitude ;
- (c) dismissal with disgrace from the Indian Marine Service ;
- (d) imprisonment ;
- (e) dismissal from the Indian Marine Service ;

(Chapter II.—Offences and Punishments. Sec. 38.)

- (f) loss of seniority as an officer for a specified time or otherwise ;
- (g) dismissal from the vessel to which the offender belongs ;
- (h) severe reprimand, or reprimand ;
- (i) disrating a warrant-officer or petty officer or any other person below that rank ;
- (j) forfeiture of pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, or of any one or more of the above particulars ; also, in the case of desertion, of all clothes and effects left by the deserter on board the vessel to which he belongs.
- (2) Each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations
as to the in-
fliction of
punishments.

38. The following regulations shall apply to the infliction of punishments :—

(1) The punishment of penal servitude may, except when otherwise provided by this Act, be inflicted for the term of life or for any other term not less than four years.

(2) In the case of persons other than Europeans or Americans, transportation for life or for any term not less than four years, or imprisonment for any term not exceeding fourteen years, shall be substituted for penal servitude.

(3) The punishment of penal servitude or of transportation, or of imprisonment for more than two years when substituted for penal servitude under the provisions of this Act, shall in all cases involve dismissal from the Indian Marine Service, with or without disgrace, as the prescribed authority may direct.

(4) Dismissal with disgrace shall involve in all cases forfeiture of all pay, bounty, salvage, prize-money and allowances earned by, and of all annuities, pensions, gratuities, medals and decorations granted to, the offender, and an incapacity to serve the Government again in any capacity.

(5) A sentence of dismissal with disgrace may in any case be accompanied by a sentence of imprisonment.

(6) Except as otherwise provided by this Act, a sentence of imprisonment passed otherwise than under clause (2) of this section may extend to two years.

(7) A sentence of imprisonment may be accompanied by a direction that the imprisonment shall be rigorous for the whole or any part of the term thereof.

(8) When a sentence of imprisonment is passed on a warrant-officer or petty officer or any other person below that rank, it may be accompanied by a direction disrating the officer or person.

(Chapter II.—Offences and Punishments. Secs. 39-40. Chapter III.—Jurisdiction and Powers. Sec. 41.)

(9) A sentence of imprisonment shall in all cases be accompanied by forfeiture of pay and allowances during the imprisonment.

39. Subject to the foregoing regulations and the other provisions of this Act, where any punishment is specified by this Act as the penalty for an offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment according to the scale set forth in section 37.

Scale of
punishments.

40. No person, unless he is an offender who has avoided arrest or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless the trial takes place within three years from the commission of the offence, or within one year after the return of the offender to British India when he has been absent from British India during that period of three years.

Limitation of
time for
trials.

CHAPTER III.

JURISDICTION AND POWERS.

41. Subject to the provisions of this Act, and, as respects Criminal Courts, subject to the law relating to criminal procedure for the time being applicable to those Courts, Criminal Courts and Indian Marine Courts or both shall have jurisdiction in respect of the offences punishable under this Act as specified in the following table :—

Offences cog-
nizable by
Criminal
Courts and
Indian Marine
Courts re-
spectively.

| Section of this Act. | | Marginal note. | Courts having jurisdiction. |
|----------------------|----|--|--|
| Section | 5 | Misconduct of commanding officer in action | Criminal Courts and Indian Marine Courts. |
| " | 6 | Not pursuing the enemy or not assisting a friend in view. | |
| " | 7 | Delaying or discouraging action or service or deserting post or sleeping on watch. | |
| " | 8 | Misconduct of subordinate officers and men in action. | |
| " | 9 | Corresponding, &c., with the enemy | Indian Marine Courts. |
| " | 10 | Improper communication with the enemy | |
| " | 11 | Neglect of duty | |
| " | 12 | Mutiny accompanied by violence | |
| " | 13 | Mutiny not accompanied by violence | Criminal Courts and Indian Marine Courts. |
| " | 14 | Inciting to mutiny | |
| " | 15 | Mutinous assembly or uttering seditious words. | |
| " | 16 | Concealing traitorous, mutinous or seditious practice, design or words. | |

(Chapter III.—Jurisdiction and Powers. Secs. 42-45.)

| Section of this Act. | | Marginal note. | Courts having jurisdiction. |
|----------------------|----|---|---|
| Section | 17 | Striking or using violence to superior officer | } Indian Marine Courts. |
| " | 18 | Disobedience or using threatening language to superior officer. | |
| " | 19 | Desertion | } Criminal Courts and Indian Marine Courts. |
| " | 20 | Inducing any person to desert | |
| " | 21 | Breaking out of vessel | } Indian Marine Courts. |
| " | 22 | Absence without leave | |
| " | 23 | Drunkenness on board ship or on duty | } Indian Marine Courts. |
| " | 24 | Cruelty or misconduct by officer | |
| " | 25 | Suffering vessel to be lost or imperilled | } Criminal Courts and Indian Marine Courts. |
| " | 26 | Unlawful taking of goods on board | |
| " | 27 | Embezzling public stores | } Criminal Courts and Indian Marine Courts. |
| " | 28 | Arson | |
| " | 29 | Making false documents | } Indian Marine Courts. |
| " | 30 | Malingering or misconduct in hospital | |
| " | 31 | Creating disturbance on account of complaints. | } Indian Marine Courts. |
| " | 32 | Offences to the prejudice of good order and discipline not otherwise specified. | |
| " | 33 | Not assisting in arresting offenders | } Criminal Courts and Indian Marine Courts. |
| " | 34 | Contempt of Court | |
| " | 35 | False evidence | } Criminal Courts. |
| " | 36 | Offences punishable by ordinary law | |

Power to pass sentences.

42. Subject as aforesaid—

- (a) a Criminal Court may pass a sentence of death, penal servitude, transportation or imprisonment; and
- (b) an Indian Marine Court may pass any sentence authorized by this Act except a sentence of death, penal servitude or transportation or of imprisonment for a term exceeding two years.

Jurisdiction and powers of commanding officers.

43. (1) An offence triable by an Indian Marine Court and committed by a person other than a gazetted officer may, under such regulations as the Governor General in Council may make, be summarily tried and punished by the commanding officer of the offender.

(2) Subject to the provisions of this Act and to such restrictions as the Governor General in Council may impose, a commanding officer may pass a sentence of imprisonment for a period not exceeding three months on an offender below the position of petty officer, and may disrate any warrant-officer or petty officer or any other person below that rank.

Place of trial

44. A person subject to this Act who is accused of an offence to which this Act applies may be tried and punished for the offence by a Criminal Court in any place where he may happen to be in the same manner as if the offence had been committed in that place.

Jurisdiction

45. Where such an offence has been committed by any person while

(Chapter III.—Jurisdiction and Powers. Secs. 46-50.)

subject to this Act, he may be taken into custody and be tried and punished for the offence, although he has ceased to be subject to this Act, in like manner as he might have been taken into custody and tried and punished if he had continued to be so subject.

over person
ceasing to be
subject to
Act.

46. When a person subject to this Act is accused of an offence in respect of which a Criminal Court has jurisdiction over him under this Act or otherwise, the following rules shall apply, namely:—

Case of per-
son charged
with an of-
fence cogniz-
able by a
Criminal
Court.

(a) any person subject to this Act shall, on application made to him by the Court, assist in arresting and securing the accused, and the commanding officer shall, if so required by the Court, deliver the accused to the Court;

(b) when no requisition is made under clause (a), the commanding officer may, if he thinks fit, place the accused in custody with a view to delivering him up to such Criminal Court as appears to him most convenient in all the circumstances of the case.

47. When a person subject to this Act is accused of an offence in respect of which an Indian Marine Court or a commanding officer has jurisdiction under this Act, and that person is within the jurisdiction of any civil, political or police officer, that officer shall, upon an application to that effect made to him by the commanding officer of that person or any prescribed authority, aid in the arrest of the person and deliver him when arrested into such custody as the commanding officer or the prescribed authority may require.

Case of per-
son charged
with an of-
fence cog-
nizable by an
Indian Marine
Court or
commanding
officer.

48. When an Indian Marine Court or commanding officer under this Act, and a Criminal Court under this Act or otherwise, have concurrent jurisdiction in respect of an offence, and there is a difference of opinion as to the tribunal before which the person accused of the offence should be proceeded against, either tribunal shall, on the requisition of the other, stay proceedings pending a reference to the Governor General in Council, whose order as to the tribunal before which the proceedings are to be had shall be final.

Conflict of
jurisdiction.

49. An offender shall not be tried by an Indian Marine Court or by his commanding officer for any offence of which he has been convicted or acquitted by a Criminal Court or an Indian Marine Court or, in exercise of the powers conferred by section 43, by his commanding officer.

Previous
conviction or
acquittal.

50. Where a person liable to be tried by an Indian Marine Court under this Act is in confinement in pursuance of a sentence of a Criminal Court, the Director of Marine or other prescribed authority may make an order in the form in Schedule B to the Prisoners' Testimony Act, 1869, directed to the officer in charge of the place in which the person is confined, and the provisions of that Act with respect to compliance with any order made thereunder

Application of
Act XV of
1869 to
Indian Marine
Courts.

(Chapter III.—Jurisdiction and Powers. Sec. 51. Chapter IV.—Indian Marine Courts. Secs. 52-53.)

shall, so far as they can be made applicable, apply in the case of any order made under this section.

Powers of Governor General in Council in respect of sentences.

51. The Governor General in Council may suspend, annul or modify any sentence passed by an Indian Marine Court on a commanding officer under this Act, or substitute a punishment inferior in degree for the punishment involved in any such sentence, or remit the whole or any portion of the punishment involved in any such sentence, or remit the whole or any portion of any punishment into which the punishment involved in any such sentence has been commuted; and any sentence so modified shall, subject to the provisions of this Act, be valid, and shall be carried into execution as if it had been originally passed with such modification by the Court or officer, but so that the punishment involved in any sentence be not increased by any such modification.

CHAPTER IV.

INDIAN MARINE COURTS.

Constitution of the Court.

Power to convene Indian Marine Court.

52. (1) The following authorities shall have power to convene Indian Marine Courts, namely:—

- (a) the Governor General in Council;
- (b) the Director of Marine;
- (c) an officer empowered in that behalf by warrant of the Governor General in Council:

Provided that an Indian Marine Court assembled for the trial of a gazetted officer shall be convened only by, or with the previous sanction of, the Governor General in Council.

(2) When a ship or ships is or are detached on separate service, and when immediate example is necessary, and without detriment to the public service reference cannot be made to superior authority, the officer in command of the ship or ships may, without warrant, convene an Indian Marine Court for the trial of any person under his command being subject to this Act and below the rank of a gazetted officer.

Composition of Indian Marine Court.

53. (1) An Indian Marine Court shall consist of a president and not less than two or more than four other members of rank not inferior to that of first grade officer as may be ordered by the convening authority;

Provided that an Indian Marine Court convened under section 52, subsection (2), may be composed of the officer convening the same as president, and the two graded officers next in seniority available for the duty.

(Chapter IV.—Indian Marine Courts. Secs. 54-56.)

(2) The president of an Indian Marine Court for the trial of a commander shall always be a commander, and two at least of the other officers composing the Court shall be commanders.

(3) The president of an Indian Marine Court for the trial of any person below the grade of commander, except an Indian Marine Court convened under section 52, sub-section (2), shall be a commander.

(4) A person acting as prosecutor shall not be a member of the Court.

(5) An officer convening an Indian Marine Court shall not sit thereon except as permitted by the proviso to sub-section (1).

(6) The president and the other members of every Indian Marine Court shall be named by the authority convening the same.

(7) When an Indian Marine Court, after the commencement of the trial, is reduced to a less number than three members, it shall be deemed to be dissolved.

(8) In the case of the death or unavoidable absence of the president of an Indian Marine Court, the next senior member of the Court, if qualified under sub-section (2) or sub-section (3), as the case may be, shall take the place of the president without special appointment as such.

(9) If such next senior member is not qualified as aforesaid, the Court shall be deemed to be dissolved.

Procedure at the Trial.

54. An Indian Marine Court shall be held on board one of Her Majesty's Indian Marine vessels or on land.

Place of sitting of Indian Marine Court.
Challenge.

55. As soon as an Indian Marine Court is assembled, the names of the members of the Court shall be read over to the prisoner, who shall be asked if he objects to being tried by any of them; if the prisoner objects to any member, the objection shall be decided by the Court; if the objection is allowed, the place of the member objected to shall be filled up by the officer next in seniority available for the duty who is not on the Court, subject to the regulations contained in section 53, sub-sections (2), (3), (4) and (5):

Provided that where the Court is composed as in the proviso to section 53, sub-section (1), and no officer qualified under that section is available to take the place of the officer objected to, the Court shall, after recording the objection, proceed with the trial in like manner as if the objection had been disallowed.

56. (1) Before an Indian Marine Court proceeds to try a prisoner, an Oath, oath shall be made by every member of the Court in the prescribed manner.

(Chapter IV.—Indian Marine Courts. Secs. 57-62.)

(2) An oath shall be made in the prescribed manner by any person who gives evidence or acts as an interpreter before an Indian Marine Court.

Trial of officers and crew by one Court.

57. When no specific charge is made against any person subject to this Act for, or in respect or in consequence of, the wreck, loss, destruction or capture of any vessel in the Indian Marine Service, all the officers and crew of the vessel may, if the authority convening the Court thinks fit, be tried together before one and the same Indian Marine Court; and any of them, when upon his trial, may be called upon to give evidence on oath touching any of the matters then under inquiry, but no person shall be obliged to give any evidence which may tend to criminate himself.

Dissolution of Court on illness of prisoner.

58. (1) If by reason of the illness of the prisoner before the finding it is impossible to continue the trial, an Indian Marine Court shall be deemed to be dissolved:

Provided that, where more prisoners than one are being tried and the trial of only one or some of them is rendered impossible by illness, the Court may, if it sees fit, continue the trial of the other or others, and, where the Court so continues the trial, it shall be deemed to have been dissolved only with respect to the prisoner or prisoners whose illness caused the continuance of his or their trial to be impossible.

(2) When the illness with which a prisoner is affected is insanity, the Court shall proceed, as nearly as circumstances admit, in the same manner as a Magistrate or Court may proceed, under section 466 of the Code of Criminal Procedure, 1882, when an accused person is found to be of unsound mind and incapable of making his defence.

Re-trial of prisoner after dissolution of Court.

59. Subject to the provisions of the last foregoing section, where an Indian Marine Court is dissolved under that section or section 53, sub-section (7) or sub-section (9), the proceedings are null and void, and the prisoner may be tried before another Indian Marine Court on the same charge or charges.

Cleaving of Court.

60. The president may, on any deliberation among the members, cause an Indian Marine Court to be cleared of all other persons.

Decision of Court.

61. Every decision of an Indian Marine Court shall be passed by a majority of votes, and where there is an equality of votes the president shall have a second or casting vote:

Provided that if there is an equality of votes on the finding the decision shall be in favour of the prisoner.

Summoning witnesses.

62. (1) Every person who may be required to give evidence or to produce a document before an Indian Marine Court shall be summoned in the prescribed manner.

(Chapter IV.—Indian Marine Courts. Secs. 63-67.)

(2) A summons issued under this section may be sent to any officer exercising magisterial powers within whose jurisdiction the person summoned may be or resides, and the officer shall give effect to the summons as if the witness were required to attend in his Court.

63. When a person subject to this Act who, being duly summoned or ordered to attend as a witness before an Indian Marine Court, behaves with contempt to the Court, the Court, if it thinks fit, instead of reserving him for trial by another Court for an offence under section 34, may, by order under the hand of the president, sentence him to imprisonment for a term which may extend to one month.

Summary
punishment
of certain
contempts

Confirmation of Findings and Sentences.

64. (1) The president of an Indian Marine Court shall date and sign the proceedings of the Court and submit them, as soon as possible after their completion, to the confirming authority.

Submission
of proceed-
ings to con-
firming au-
thority.

(2) If the Court has made a recommendation to mercy, the recommendation shall be recorded and submitted to the confirming authority as part of the proceedings.

65. A finding or sentence of an Indian Marine Court shall not be valid except in so far as it may be confirmed by the confirming authority.

Confirmation
of findings
and sen-
tences.

66. (1) The confirming authority shall ordinarily be the authority convening the Court.

Confirming
authority.

(2) But if the Court was convened for the trial of a gazetted officer with the previous sanction of the Governor General in Council, or if, in the case of a Court convened for the trial of any other person subject to this Act, the Governor General in Council is of opinion that the authority convening the Court cannot act, or cannot conveniently act, as the confirming authority, the confirming authority shall be the Governor General in Council.

(3) The fact that the Governor General in Council has acted as the confirming authority with respect to any finding or sentence shall be conclusive proof that he was the proper confirming authority with respect thereto.

67. (1) The confirming authority may send back the finding and sentence of an Indian Marine Court, or either of them, for revision; and, on the finding or sentence being sent back, the Court may, if so directed by the confirming authority, receive additional evidence.

Powers of
confirming
authority

(2) Where the finding only is sent back for revision, the Court may revise the sentence also.

(Chapter IV.—Indian Marine Courts. Secs. 68-70.)

(3) The confirming the authority may, in confirming the sentence of an Indian Marine Court,—

- (a) reduce the punishment thereby awarded, or commute that punishment to any other punishment of inferior degree to which the offender might have been sentenced by the Court;
- (b) suspend for such time as seems expedient the execution of the sentence;
- (c) if the finding or sentence is informally expressed, vary the form thereof, or, if the sentence is invalid, substitute a valid sentence therefor.

(4) Notwithstanding any error, omission or irregularity in any proceeding of an Indian Marine Court, the confirming authority may confirm the finding or sentence of the Court, or either of them, unless the error, omission or irregularity has, in the opinion of that authority, occasioned a failure of justice.

Evidence.

Law of evidence applicable.

68. The Indian Evidence Act, 1872, subject to such modifications therein I of 1872. as the Governor General in Council may, by notification in the Gazette of India, direct, shall apply to all proceedings before Indian Marine Courts.

Preservation of Proceedings.

Preservation of Indian Marine Court proceedings and of copies.

69. (1) The proceedings of all Indian Marine Courts shall be preserved in the office of the Director of Marine for not less than seven years in the case of the trial of a gazetted officer, or than three years in the case of any other person.

(2) Any person tried by an Indian Marine Court shall be entitled, on demand at any time after the confirmation of the finding and sentence of the Court and before the proceedings are destroyed, to obtain from the officer or person having the custody of the proceedings a copy thereof, upon payment for the same at the prescribed rate.

Power to make Rules respecting Procedure.

Power to make rules respecting procedure.

70. (1) The Governor General in Council may make rules to regulate the procedure of Indian Marine Courts, and for the purpose of carrying this Act into execution, so far as relates to the investigation, trial and punishment of offences triable by those Courts.

(2) The Governor General in Council may by any such rule confer on an Indian Marine Court any power (other than a power to try an accused person or pass a sentence) conferred on a Court of original criminal jurisdiction by the Code of Criminal Procedure, 1882.

CHAPTER V.

SUPPLEMENTAL CRIMINAL PROVISIONS.

Procedure of Criminal Courts beyond British India.

71. The law relating to criminal procedure for the time being in force in British India shall, subject to such modifications as the Governor General in Council, by notification in the Gazette of India, directs, apply to all proceedings under this Act in Criminal Courts beyond the limits of British India.

Procedure of Criminal Courts beyond British India.

Arrest.

72. The following rules shall apply to persons subject to this Act when charged with offences under this Act:—

Arrest of offenders.

(1) Every such person shall be placed in custody, but no person shall be detained in custody longer than is necessary for the purposes of justice.

(2) "Custody" means, according to the usage of the service, the putting of the offender under arrest or the putting him in confinement.

(3) Any officer, or, if more officers than one are present, the senior of them, may order into custody any other person of inferior rank subject to this Act.

(4) The charge made against every person taken into custody shall, without unnecessary delay, be investigated by his commanding officer or other prescribed authority; and, as soon as may be, proceedings shall be taken for punishing the offender or discharging him from custody.

73. A commanding officer shall, upon an investigation being made into a charge against a person subject to this Act and under his command of having committed an offence under this Act, dismiss the charge if he thinks that it ought not to be proceeded with, but when he thinks the charge ought to be proceeded with, he shall, subject to the provisions of this Act, take steps without delay for bringing the offender to trial.

Power of commanding officer.

Execution of Sentences of Indian Marine Courts and Commanding Officers.

74. (1) Every term of imprisonment awarded in pursuance of the sentence of an Indian Marine Court or of a commanding officer exercising jurisdiction under this Act shall, except as provided in sub-section (2), be deemed to commence on the day on which the original sentence was signed by the president of the Court or pronounced by the commanding officer.

Commencement of sentences of imprisonment.

(2) When a person already undergoing a sentence of penal servitude, transportation or imprisonment is sentenced by an Indian Marine Court to

(Chapter V—Supplemental Criminal Provisions. Secs. 75-77.)

imprisonment, that imprisonment shall commence at the expiration of the penal servitude, transportation or imprisonment to which he has previously been sentenced :

Provided that when, under this sub-section, at the expiration of a term of imprisonment to which a person has been sentenced by an Indian Marine Court, another term of imprisonment to which he has been similarly sentenced commences, and the aggregate term of imprisonment to which he would be thus liable would, as reckoned from the commencement of such imprisonment, exceed two years, so much of that term as is in excess of two years shall be deemed to be remitted.

Execution of
such sen-
tences.

75. (1) A person sentenced by an Indian Marine Court, or by a commanding officer exercising jurisdiction under this Act, to imprisonment shall be detained in the prescribed custody until he is transferred to a prison.

(2) A person sentenced as aforesaid shall, as soon as may be practicable, be transferred to a prison in British India, and shall be delivered over with a warrant of commitment in the prescribed form signed by the prescribed authority to the officer in charge of that prison.

(3) A person transferred to a prison under sub-section (2) shall thereafter be dealt with in all respects as if he were detained in that prison under a sentence of a Criminal Court :

Provided that—

- (a) when he is a person sentenced to imprisonment by his commanding officer, the commanding officer, or the Director of Marine, may, at any time by order in writing, direct that he be discharged ;
- (b) the Director of Marine or any commanding officer may, by order in writing, direct that any person so transferred shall be delivered over to the prescribed custody for the purpose of being brought before an Indian Marine Court either as a witness or for trial or otherwise, and that he shall again be transferred to the prison.

Savings.

Saving of
authority of
ordinary
Courts.
Minor
punishments.

76. Except as expressly provided by this Act, nothing in this Act shall affect the jurisdiction or powers of any Court of criminal jurisdiction.

77. Nothing in this Act shall affect any rules, regulations, conditions or customs of the Indian Marine Service now or hereafter in force under which any person may be liable—

- (a) to dismissal, loss of seniority, disrating, forfeiture or stoppages ; or
- (b) to any restriction not amounting to custody, or any deprivation of indulgence or additional duty, imposed in the way of discipline.

(Chapter V.—*Supplemental Criminal Provisions. Secs. 78-79. Chapter VI.—
Provisions of Civil Law. Secs. 80-81.*)

Amendment of Acts.

X of 1882. 78. In the Code of Criminal Procedure, 1882, section 54, after the words
“Army or Navy” the following shall be inserted, namely:—
“or of belonging to Her Majesty’s Indian Marine Service and being
illegally absent from that service.”

Amendment
of Act X of
1882, section
54 (Arrest of
Deserters).

XLV of 1860. 79. After section 138 of the Indian Penal Code the following section shall
be inserted, namely:—

Amendment
of Chapter
VII of the
Penal Code
(Offences
relating to
Army and
Navy).

“138A. The foregoing sections of this Chapter shall apply as if Her
Majesty’s Indian Marine Service were comprised in the Navy of the Queen.”

Application
of foregoing
sections to
the Indian
Marine
Service.

CHAPTER VI.

PROVISIONS OF CIVIL LAW.

Exemption from Process.

80. (1) A person below the position of gazetted officer shall not, while
subject to this Act, be liable to be taken out of the Indian Marine Service by
any process, execution or order of any Court of law, or otherwise, or be com-
pelled to appear in person before any Court of law except in respect of the
following matters, or one of them; that is to say:—

Exemption
from arrest
for debt.

(a) on account of a criminal charge or conviction;

(b) on account of a decree for money, when the amount exceeds three
hundred rupees over and above the costs of the suit.

(2) The Judge of any such Court may examine into any complaint made
by any such person, or his superior officer, of the arrest of the person contrary
to the provisions of this section, and may by order under his hand discharge
the person, and award reasonable costs to the complainant, who may recover
those costs as he might have recovered costs awarded to him by a decree
against the person obtaining the process.

81. The clothes, equipment or arms of a person subject to this Act shall
not be seized, nor shall the pay and allowances or any part thereof of any such
person below the position of a gazetted officer be attached, in execution of any
decree or order enforceable against him by any Court of Civil Judicature.

Property
which cannot
be attached.

Property of Deceased Persons and Deserters.

Disposal of
property of
deceased
persons and
deserters.

82. The following rules are enacted respecting the disposal of the property of any person subject to this Act who dies or deserts :—

(1) The commanding officer shall secure all the moveable property which is on the spot and cause an inventory thereof to be made.

(2) In the case of a deceased person, if his representative is on the spot and gives security for the payment of the ship and service debts of the deceased, the commanding officer shall deliver over the property to that representative.

(3) In the case of a deceased person, if the property is not dealt with under clause (2), and in the case of every deserter, the commanding officer shall cause the property to be sold by public auction, and from the proceeds of the sale shall pay the ship and service debts and, in the case of a deceased person, the expenses of his funeral ceremonies.

(4) The surplus, if any, shall in the case of a deceased person be paid to his representative.

(5) In the event of no claim for the surplus of a deceased person's estate being established within twelve months after his death, and immediately after the sale of the effects of a deserter, the amount remaining in the hands of the commanding officer shall be remitted to the Director of Marine.

(6) Property deliverable or money payable to the representative of a deceased person under this section may, if the value or amount thereof does not exceed one thousand rupees and the Director of Marine or the prescribed authority thinks fit, be delivered or paid to any person appearing to him to be entitled to receive it, or to administer the estate of the deceased, without requiring the production of any probate, letters of administration, certificate or other such conclusive evidence of title; and such delivery or payment shall be a full discharge to the person ordering or making the same and to the Secretary of State for India in Council from all further liability in respect of the property or money; but nothing in this section shall affect the rights of any executor or administrator or other representative or of any creditor of a deceased person against a person to whom any such delivery or payment has been made.

(7) A person shall be deemed to have deserted within the meaning of this section who has been convicted of desertion, or who has been absent without leave for a period of thirty days from the Indian Marine Service, and has not subsequently surrendered or been arrested.

ACT No. XX OF 1887.

Received the Governor General's assent on the 21st October, 1887.

An Act for the Protection of Wild Birds and Game.

WHEREAS municipal authorities in different parts of British India have from time to time made rules for the protection of birds and other game ;

And whereas it is expedient that Local Governments and cantonment-authorities as well as municipal authorities should be empowered to make such rules ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Wild Birds Protection Act, 1881.

Title, extent
and com-
mencement.

(2) It extends to the whole of British India ; and

(3) It shall come into force at once.

2. In this Act—

Definitions.

(1) “municipal authority” means the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force :

(2) “cantonment authority” means a cantonment-committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment : and

(3) “wild bird” includes a peacock and every bird of game.

3. (1) The Local Government with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or cantonment-authority of any municipality or cantonment, may from time to time make rules—

Power to
make rules.

(a) defining the expression “wild bird” for the purposes of this Act in its application to the municipality or cantonment ;

(b) defining for those purposes the breeding season of any kind of wild bird ; and

(c) prohibiting, subject to such exceptions and conditions as may be prescribed by the rules, the possession or sale during its breeding season within the municipality or cantonment of any kind of wild bird recently killed or taken, or the importation into the municipality or cantonment of the plumage of any kind of wild bird during such season.

(2) The authority making a rule under clause (c) of sub-section (1) may direct that a breach of it shall be punishable with fine which may extend, in the case of a first offence, to five rupees for every wild bird in respect of which

or of the plumage whereof the breach of the rule has been committed, and, in the case of a subsequent offence, to ten rupees in respect of every such bird or plumage.

(3) A Court convicting any person of a breach of any such rule may order the confiscation of any wild bird or plumage in respect of which the breach was committed.

4) The power to make rules under this section is subject to the condition of the rules being made after previous publication and, in the case of rules made by a municipal authority or cantonment-authority, to the further condition of the rules being confirmed by the Local Government before they are published in the official Gazette under clause (5) of section 6 of the General Clauses Act, 1887.^a

I of 1887.

Power to
apply Act to
any animals
of game.

4. The Local Government, of its own motion or on the application of any municipal authority or cantonment-authority, may, by notification in the official Gazette, declare the provisions of the last foregoing section with respect to wild birds to apply to any animals of game other than birds, and thereupon those provisions shall apply to such animals and their furs in like manner as they apply to wild birds and their plumage.

ACT No. XXI OF 1887.

Received the Governor General's assent on the 21st October, 1887.

An Act to provide for the establishment of Bonded Warehouses at places other than customs-ports.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports ; It is hereby enacted as follows :—

1. (1) This Act may be called the Inland Bonded Warehouses Act, 1887.

Title, con-
struction and
commence-
ment.

(2) It shall be read with, and taken as part of, the Sea Customs Act, 1878 : and

(3) It shall come into force at once.

VIII of 1878.

Inland
bonded ware-
houses and
law applic-
able thereto.

2. (1) Notwithstanding anything in the Sea Customs Act, 1878, the Chief Customs-authority may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license.

VIII of 1878.

(2) In reference to such a place and the warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with

^a See *supra*, p. 118.

respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

ACT No. I OF 1888.^a

Received the Governor General's assent on the 27th January, 1888.

An Act to amend the Indian Stamp Act, 1879.

WHEREAS it is expedient to amend certain provisions of the Indian Stamp Act, 1879, relating to policies of insurance; It is hereby enacted as follows:—

1. For clause (15) of section 3 of that Act the following shall be substituted, namely:—

Amendment
of definition
of "policy
of insurance."
"Policy of
insurance."

"(15) 'Policy of insurance' means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event;

"It includes a life-policy, and includes also any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire-insurance in respect of which, and of the previous renewal whereof (if any), there has not already been paid the stamp-duty which would have been chargeable if the policy had originally been granted for a longer term than six months."

2. For article 49 of the first schedule to that Act the following shall be substituted, namely:—

New article
substituted
for article 49
of Schedule I.

| DESCRIPTION OF INSTRUMENT. | | PROPER STAMP-DUTY. | |
|---|---|--------------------|---------------------------------------|
| | | If drawn singly. | If drawn in duplicate, for each part. |
| | | Rs. A. P. | Rs. A. P. |
| 49. POLICY OF INSURANCE. | (a) In the case of sea-insurance— | | |
| | Rs. | | |
| See <i>Exemption, Schedule II [No. 14 (a)].</i> | When the amount insured does not exceed . . . 1,000 | 0 4 0 | 0 2 0 |
| | And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000 | 0 4 0 | 0 2 0 |

^a This Act has been extended to Upper Burma (except the Shan States), under s. 5 of the Scheduled Districts Act, 1874—see *Burma Gazette*, 4th August, 1888, Pt. I, p. 362, and *Gazette of India*, 11th idem, Pt. I, p. 371.

| DESCRIPTION OF INSTRUMENT. | PROPER STAMP-DUTY. |
|--|--------------------|
| (b) In the case of fire-insurance— | Rs. A. P. |
| i. In respect of an original policy for a month or any shorter term— | |
| Rs. | |
| When the amount insured does not exceed . . . 1,000 | 0 2 0 |
| And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000 | 0 2 0 |
| ii. In respect of an original policy for more than one month but not more than three months— | |
| Rs. | |
| When the amount insured does not exceed . . . 1,000 | 0 3 0 |
| And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000 | 0 3 0 |
| iii. In respect of an original policy for more than three months but not more than six months— | |
| Rs. | |
| When the amount insured does not exceed . . . 1,000 | 0 4 0 |
| And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000 | 0 4 0 |

49. POLICY OF INSURANCE—*contd.*

| DESCRIPTION OF INSTRUMENT. | PROPER STAMP-DUTY. |
|--|---|
| <p>49. POLICY OF INSURANCE—<i>contd.</i></p> <p>iv. In respect of an original policy for a longer term than six months—</p> <p style="text-align: right;">Rs.</p> <p>When the amount insured does not exceed . . . 1,000</p> <p>And for every further sum of Rs. 1,000 or part thereof in excess of . . . 1,000</p> <p>v. In respect of renewing, for the purpose of keeping in force, a policy which has been granted for six months or any shorter term and in respect of which, and of the previous renewal whereof (if any), there has not already been paid the duty which would have been chargeable if the policy had originally been granted for a longer term than six months</p> | <p style="text-align: center;">Rs. A. P.</p> <p style="text-align: center;">0 6 0</p> <p style="text-align: center;">0 6 0</p> <p>The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends; or</p> <p>the excess of the duty which would have been chargeable if the policy had originally been granted for a longer term than six months, over the duty already paid in respect of the policy, and of the previous renewal thereof (if any);</p> <p>whichever is the smaller sum.</p> |

| DESCRIPTION OF INSTRUMENT. | PROPER STAMP-DUTY. | |
|---|---|---|
| | If drawn singly. | If drawn in duplicate, for each part. |
| <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;">49. POLICY OF INSURANCE—<i>conold.</i></div> <div style="font-size: 4em; margin-right: 10px;">{</div> <div> <p>(c) In the case of any other insurance—</p> <p style="text-align: right;">Rs.</p> <p>When the amount insured does not exceed . 1,000</p> <p>And for every further sum of Rs. 1,000 or part thereof in excess of . 1,000</p> </div> </div> | <p>Rs. A. P.</p> <p>0 6 0</p> <p>0 6 0</p> | <p>Rs. A. P.</p> <p>0 3 0</p> <p>0 3 0</p> |

ACT No. II OF 1888.

Received the Governor General's assent on the 10th February, 1888.

An Act to provide for the levy of a Customs-duty on Petroleum.

WHEREAS it is expedient to provide for the levy of a customs-duty on petroleum; It is hereby enacted as follows:—

Addition to
Schedule II,
Act XI, 1882.

1. To the second schedule to the Indian Tariff Act, 1882, the following XI of 1882. shall be added, namely:—

| No. | Names of Articles. | Per | Tariff valuation. | Rate of Duty. |
|-----|--|-----------------|-------------------|---------------|
| 5 | <p>Petroleum, including also the liquids commonly known by the names of rock-oil, Rangoon oil, Burma oil, kerosine, paraffine oil, mineral oil, petroleine, gasoline, benzol, benzoline, benzine, and any inflammable liquid which is made from petroleum, coal, schist, shale, peat or any other bituminous substance or from any products of petroleum</p> <p><i>Exception.</i>—Petroleum which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is provided to the satisfaction of the Customs-collector to be intended to be used exclusively for the batching of jute or other fibre or for lubricating purposes.</p> | Imperial gallon | | Six pies. |

VIII of 1878.

And whereas the provisos to section 37 of the Sea Customs Act, 1878, do not apply to goods to which a rate of duty is not already applicable; It is further enacted as follows:—

VIII of 1878.

2. The rate of duty applicable to petroleum of which the bill-of-entry is delivered, within the meaning of section 37 of the Sea Customs Act, 1878, to the Customs-collector under section 86 of that Act after the passing of this Act, shall be the rate of duty specified in the second schedule to the Indian

Commence-
ment of
effect of the
addition to
the schedule.

XI of 1882.

Tariff Act, 1882, as amended by this Act.

ACT No. III of 1888.

Received the Governor General's assent on the 17th February, 1888.

An Act to amend the Law relating to the Regulation of Police.

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of police-officers to the presidency, province or place of the police-establishment of which they are members; It is hereby enacted as follows:—

1. (1) This Act may be called the Police Act, 1888.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

Title, extent
and com-
mencement.

Rom. Act
VII of 1867.

2. (1) Notwithstanding anything in Act XXIV of 1859 (*an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*), Act V of 1861 (*an Act for the regulation of Police*), the Bombay District Police Act, 1867, or any Act relating to the police in any presidency-town, the Governor General in Council may, by notification in the Gazette of India, create a general police district embracing parts of two or more presidencies, provinces or places, and direct the enrolment under Act V of 1861 of a police-force for service therein.

Constitution
of police-
forces for
special pur-
poses.

X of 1882.

(2) With respect to such a district and the police-force enrolled therefor, the functions of the Local Government under Act V of 1861, the Code of Criminal Procedure, 1882, and any other enactment for the time being in force relating to police shall, subject to any orders which the Governor General in Council may make in this behalf, be discharged by the Governor General in Council, or by such Local Government or other authority as the Governor General in Council may appoint, and the functions of the Inspector General of Police, Deputy Inspectors General, Assistant Inspectors General, District

(Sec. 3.)

Superintendents of Police and Assistant District Superintendents under Act V of 1861 and any other enactment for the time being in force shall, subject as aforesaid, be discharged by such officer or officers as may be appointed by the authority ordinarily discharging under this sub-section the functions of the Local Government with respect to the district and force.

(3) Subject to any orders which the Governor General in Council may make in this behalf, members of a police-force enrolled for service in a general police district created under sub-section (1) shall have within every part of any presidency, province or place of which any part is included in the district the powers, duties, privileges and liabilities which, as police-officers appointed under Act V of 1861, they have within the district.

(4) Any member of such a force whom the authority ordinarily discharging with respect thereto the functions of the Local Government under sub-section (2) has generally or specially empowered to act under this sub-section may, subject to any orders which the Governor General in Council may make in this behalf, exercise in any part of the local area in which he has the powers of a police-officer under sub-section (3) any of the powers which an officer in charge of a police-station has in that part, and, when so exercising any such power, shall, subject as aforesaid, be deemed to be an officer in charge of a police-station discharging the functions of such an officer within the limits of his station.

(5) Subject to any orders which the Governor General in Council may make in this behalf, a part of a presidency, province or place included in a general police district under sub-section (1) shall not by reason of being included therein cease for the purposes of any enactment relating to police to be part of the presidency, province or place of which it forms part.

(6) For the purposes of this section, and subject to the provisions thereof, Act V of 1861 shall, notwithstanding anything in section 46 of that Act, be deemed to take effect throughout the whole of British India.

Employment
of police-
officers
beyond the
presidency,
province
or place to
which they
belong.

3. Notwithstanding anything in any of the Acts mentioned or referred to in the last foregoing section, but subject to any orders which the Governor General in Council may make in this behalf, a member of the police-establishment of any presidency, province or place may discharge the functions of a police-officer in any part of British India beyond the limits of the presidency, province or place, and shall, while so discharging such functions, be deemed to be a member of the police-establishment of that part and be vested with the powers functions and privileges, and be subject to the liabilities, of a police-officer belonging to that establishment.

(Secs. 1-6.)

ACT No. IV OF 1888.

*Received the Governor General's assent on the 2nd March, 1888.***An Act to regulate Her Majesty's Indian Reserve Forces.**

WHEREAS it is expedient to provide for the government, discipline and regulation of Her Majesty's Indian Reserve Forces; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Reserve Forces Act, 1888; and
 (2)* It shall come into force on such day as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf.
2. The Indian Reserve Forces shall consist of the Active Reserve and the Garrison Reserve.
3. (1) A person belonging to the Active Reserve shall be liable to serve beyond the limits of British India as well as within those limits.
 (2) A person belonging to the Garrison Reserve shall not be liable without his consent to serve beyond the limits of British India.
4. The Governor General in Council may make rules and orders for the government, discipline and regulation of the Indian Reserve Forces.
5. Subject to the provision of section 3 with respect to persons belonging to the Garrison Reserve, and to such rules and orders as may be made under section 4, a person belonging to the Indian Reserve Forces shall, as an officer or soldier, as the case may be, be subject to military law in the same manner and to the same extent as a person belonging to Her Majesty's Indian Forces.
6. (1) If a person belonging to the Indian Reserve Forces—
 (a) when required by or in pursuance of any rule or order under this Act to attend at any place fails without reasonable excuse to attend in accordance with such requirement, or
 (b) fails without reasonable excuse to comply with any such rule or order, or
 (c) fraudulently obtains any pay or other sum contrary to any such rule or order,
 he shall be liable—
 (i) on conviction by a Court-martial, to such punishment other than death,

Title and commencement.

Division of Reserve Forces into Active and Garrison Reserves.

Locality of service of Reserves.

Power to make rules for regulation of Reserve Forces.

Liability of Reserve Forces to military law.

Punishment of certain offences by persons belonging to Reserve Forces.

* The Act came into force on the 26th May, 1888- see Gazette of India, of same date, Pt. I, p. 239.

transportation or imprisonment for a term exceeding one year as such Court is by the Indian Articles of War empowered to award, Act V of 1869.
or

- (ii) on conviction by a Magistrate of the first class, to imprisonment for a term which may extend, in the case of a first offence under this section, to six months, and, in the case of any subsequent offence thereunder, to one year.

(2) Where a person belonging to the Indian Reserve Forces is required by or in pursuance of any rule or order under this Act to attend at any place, a certificate purporting to be signed by an officer appointed by such a rule or order in this behalf, and stating that the person so required to attend failed to do so in accordance with such requirement, shall, without proof of the signature or appointment of such officer, be evidence of the matters stated therein.

(3) Any person charged with an offence under this section may be taken into and kept in either military or civil custody, or partly into and in one description of custody and partly into and in the other, or be transferred from one description of custody to the other.

Effect of Act
on persons
already in
the Reserves.

7. Nothing in this Act or in any rule or order thereunder shall make any person transferred to the Indian Reserve Forces before the commencement of this Act subject, without his consent, to any of the provisions of this Act.

THE INVENTIONS AND DESIGNS ACT, 1888.

CONTENTS.

SECTIONS.

1. Title, extent and commencement.
 2. Repeal.
 3. Division of Act into Parts.
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PART I.

INVENTIONS.

4. Definitions.
5. Application for leave to file specification.
6. Order to file specification.

SECTIONS.

7. Applications in respect of contemporaneous inventions.
8. Acquisition and continuance of exclusive privilege.
9. Form and contents of specification.
10. Mode of filing application and specification.
11. Delivery and distribution of copies of specification.
12. Register of inventions.
13. Address-book.
14. Provisions with respect to the register and book.
15. Extension of exclusive privilege.
16. Imposition of conditions with respect to exclusive privilege.
17. Exclusive privilege to bind the Government.
18. Application for leave to file memorandum or amended specification.
19. Effect of amended specification.
20. Bar to exclusive privilege in certain cases.
21. Novelty of invention dependent on public use or knowledge thereof before application to file specification.
22. Effect of public use or knowledge of invention in fraud of inventor.
23. Effect of temporary use of invention in public by inventor or by his leave.
24. Effect of public use or knowledge of patented invention between application for patent and application to file specification.
25. Effect of like public use or knowledge of unpatented invention.
26. Effect of public use or knowledge of invention after admission to an exhibition.
27. Cessation of exclusive privilege by order of the Government.
28. Cessation of exclusive privilege on revocation or expiration of patent.
29. Suit for infringement of exclusive privilege.
30. Application to declare exclusive privilege in respect of an invention not to have been acquired.
31. Like application as to part of an invention.
32. Security for costs of application under either of the two last foregoing sections.
33. Application on breach of condition.
34. Notice of proceedings to persons interested.
35. Framing issue for trial before other Court.
36. Order on application.
37. Delivery of particulars.
38. Title of actual inventor to exclusive privilege in case of fraud.
39. Transmission of copies of decrees and orders to Secretary.
40. Registration of cessation of exclusive privilege.
41. Rectification of register of inventions or address-book.
42. Power to High Court to stay proceedings on or dismiss certain applications.
43. Power for Governor General in Council to require grant of licenses.
44. Assignment for particular places.
45. Subscription of specifications and applications.
46. Verification of applications.
47. Agents.
48. Fees.
49. Rules and forms.

(Sec. 1.)

PART II.

DESIGNS.

SECTIONS.

50. Definitions.
51. Application for order for registration of design.
52. Registration in register of designs.
53. Acquisition of copyright.
54. Marking registered designs.
55. Effect of exhibiting unregistered designs at exhibitions.
56. Mutation of names in register of designs.
57. Suit for infringement of copyright.
58. Registration of cessation of copyright.
59. Rectification of register of designs.
60. Power to High Court to stay proceedings on or dismiss application for rectification of register.
61. Application to this Part of certain provisions of Part I.
62. Fees.
63. Rules and forms.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

THE THIRD SCHEDULE.—APPLICATION WHERE PATENT HAS BEEN OBTAINED.

THE FOURTH SCHEDULE.—FEES (*Inventions*).

THE FIFTH SCHEDULE.—APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

THE SIXTH SCHEDULE.—FEES (*Designs*).

ACT No. V OF 1888.

Received the Governor General's assent on the 16th March, 1888.

An Act to consolidate and amend the law relating to the Protection of Inventions and Designs.

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

Title, extent
and com-
mencement.

1. (1) This Act may be called the Inventions and Designs Act, 1888.
- (2) It shall extend to the whole of British India,* and
- (3) It shall come into force on the first day of July, 1888.

* This Act has been extended to Upper Burma (except the Shan States) under s. 5 of the Scheduled Districts Act, 1874—see *Burma Gazette*, 4th August, 1888, Pt. I, p. 362, and *Gazette of India*, 11th *idem*, Pt. I, p. 371.

2. (1) The enactments described in the first schedule are hereby repealed Repeal.
to the extent specified in the third column thereof.

(2) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability.

(3) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

3. The remainder of this Act is divided into Parts, as follows :—

Division of
Act into
Parts.

PART I.—INVENTIONS.

PART II.—DESIGNS.

PART I.

INVENTIONS.

4. In this Part, unless there is something repugnant in the subject or Definitions.
context,—

(1) “invention” includes an improvement :

(2) “inventor” does not include the importer into British India of a new invention unless he is the actual inventor :

(3) “applicant” means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not :

(4) “assign” includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorizing others so to do, during the term for which the privilege is to continue or may be extended, or for any shorter term :

(5) “inventor”, “actual inventor” and “applicant” include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be :

(6) “manufacture” includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture :

(7) “write” includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance.

(Part I.—Inventions. Secs. 5-6.)

(8) "Secretary" means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any under secretary, assistant secretary or other officer subordinate to the Government of India to the extent to which such officer may be authorized by general or special order of the Governor General in Council to discharge any of those functions :

(9) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure : and

XIV of 1882.

(10) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure, 1882, in reference to proceedings against European British subjects. X of 1882.

Application
for leave to
file specifica-
tion.

5. (1) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof.

(2) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom.

(3) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and of the particular novelty whereof it consists, and be supplemented by such further particulars relating to the invention, and by such drawings or photographs illustrative thereof, as the Governor General in Council may see fit to require from the applicant.

(4) If in any case it appears to the Governor General in Council that an application ought to be further supplemented by a model of anything alleged to constitute an invention, he may require the applicant to furnish such a model neatly and substantially made of durable material and of dimensions not exceeding those, if any, specified in the requisition therefor.

Order to file
specification.

6. (1) Upon an application under the last foregoing section the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the applicant to file a specification of the invention.

(2) Before making an order under sub-section (1) the Governor General in Council may direct that the application be referred for inquiry and report to any person whom he thinks fit.

(3) When such inquiry and report are made by a person who is not in the service of the Government, there shall be payable to that person by the

(Part I.—Inventions. Secs. 7-5.)

applicant such fee as the Governor General in Council, after considering the report, may determine.

(4) When an application is to be referred to such a person, the applicant shall deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Secretary, be sufficient to defray any fee which is likely to be determined under sub-section (3).

(5) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(6) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (1) until the applicant has paid the balance of the fee.

(7) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

7. (1) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorize both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

Applications in respect of contemporaneous inventions.

(2) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorizing the filing of his specification.

8. (1) If within six months from the date of an order under section 6, sub-section (1), or within such further time, not exceeding three months, as the Governor General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorizing others so to do, for a term of fourteen years from the date of the filing of the specification.

Acquisition and continuance of exclusive privilege.

(2) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (1), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule,

(Part I.—Inventions. Secs. 9-11.)

any fee prescribed in that schedule in respect of the continuance of the privilege.

(3) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor General in Council for an enlargement of the time for making the payment.

(4) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely :—

(a) the time for making a payment shall not in any case be enlarged for more than three months; and

(b) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

Form and
contents of
specification.

9. (1) A specification filed under this Part must be in writing signed by the applicant, and must set forth the precise invention in respect of which the applicant claims to become entitled to an exclusive privilege.

(2) If the specification is of an invention which is an improvement only, it must by explicit language distinguish between what is old and what is claimed to be new.

(3) Every specification must explain the principle of the invention set forth therein and the best mode in which the applicant has contemplated applying that principle, and must describe the manner of making and using the invention in such full, clear, concise and exact terms as to enable any person skilled in the art or science to which the invention appertains, or with which it is most closely connected, to make or use the same.

Mode of
filing appli-
cation and
specification.

10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

Delivery and
distribution
of copies of
specification.

11. (1) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be delivered or sent therewith to the Secretary as many copies thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(2) One of these copies shall be retained by the Secretary, and one shall be sent to the Governor of Fort St. George in Council, one to the Governor of Bombay in Council, one to the Chief Commissioner of Burma, and the others,

(Part I.—Inventions. Secs. 12-15.)

if any, to such authorities as the Governor General in Council may appoint in this behalf.

(3) The copies of the specification which are sent under sub-section (2) to the authorities mentioned or referred to in that sub-section shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities.

12. (1) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed in pursuance thereof, and every subsequent proceeding relating to the invention described therein. Register of inventions.

(2) Applications for leave to file a specification shall be numbered consecutively in the order in which they are delivered or received, and be dated as of the day of their delivery or receipt, and shall be entered in the register of inventions in the order of their respective numbers.

(3) A reference shall be made in that register, in the margin of the entry of each application, to every order on or in respect of the application, to the specification, if any, filed in pursuance thereof, and to every subsequent proceeding relating to the invention which forms the subject of the application.

13. (1) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him. Address-book.

(2) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry in that register of the application for leave to file the specification.

14. (1) Every entry in the register of inventions or address-book, and every document entered and recorded in the register, shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document and shall be open to the inspection of any person at all reasonable times at the office of the Secretary. Provisions with respect to the register and book.

(2) The books kept under section 11 and section 35 of Act No. XV of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

15. (1) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the Extension of exclusive privilege.

(Part I.—Inventions. Secs. 16-17.)

expiration of an exclusive privilege acquired under section 8, apply to the Governor General in Council for an extension of the privilege for a further term.

(2) When an application is made under sub-section (1), the Governor General in Council may, if he thinks fit, refer it to a High Court for report.

(3) The Court to which the application is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(4) The procedure on the reference shall be such as the Court thinks fit, and may include the issue of citations calling upon persons claiming to have any interest in the reference to appear before the Court on the day on which the reference is to be considered, or on any day to which the consideration thereof may be adjourned, and make with respect thereto any representation which they may see fit in relation to any of the matters to which the Court is required by the last foregoing sub-section to have regard in making its report.

(5) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (2), if the Court reports, that the inventor has been inadequately remunerated by his exclusive privilege, the Governor General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

(6) But an exclusive privilege of which the term has been extended under the last foregoing sub-section shall, notwithstanding anything in that sub-section, cease if the inventor fails to pay before the expiration of each year of such extended term the fee prescribed in the schedule aforesaid in respect of the continuance of the privilege.

Imposition of conditions with respect to exclusive privilege.

16. An order under section 6, sub-section (1), authorizing the filing of a specification, or under section 15, sub-section (5), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient.

Exclusive privilege to bind the Government.

17. (1) Subject to any conditions imposed under the last foregoing section—

- (a) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or,
- (b) with respect to the extension, in favour of any person, of the term of an exclusive privilege,

(Part I.—Inventions. Secs. 18-20.)

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

(2) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor General in Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

18. (1) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his application or specification or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor General in Council for leave to file a memorandum pointing out the mis-statement or disclaiming any part of the alleged invention, or for leave to file an amended specification, as the case may be.

Application for leave to file memorandum or amended specification.

(2) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(3) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(4) The provisions of section 6 with respect to applications, and of sections 9 and 11 with respect to specifications and copies thereof, shall apply, so far as they can be made applicable, to applications and to amended specifications, respectively, made and filed under this section.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed :

Effect of amended specification.

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

20. A person shall not be entitled to an exclusive privilege under this Part—

Bar to exclusive privilege in certain cases.

(a) if the invention is of no utility, or

(b) if the invention, at the date of the delivery or receipt of the application

(Part I.—Inventions. Secs. 21-24.)

for leave to file the specification thereof, was not a new invention within the meaning of this Part, or

- (c) if the applicant is not the inventor thereof, or
- (d) if the original or any amended specification does not fulfil the requirements of this Part, or
- (e) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or
- (f) if the application for leave to file the specification of the invention was made under this Part after the expiration of one year from the date of the acquisition of an exclusive privilege in respect of the invention in any place beyond the limits of British India and the United Kingdom.

Novelty of invention dependent on public use or knowledge thereof before application to file specification.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not before the date of the delivery or receipt of the application for leave to file the specification thereof been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication.

Effect of public use or knowledge of invention in fraud of inventor.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification thereof shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence :

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

Effect of temporary use of invention in public by inventor or by his leave.

23. Use of an invention in public by the inventor thereof, or by his servant or agent, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification thereof, or knowledge of the invention resulting from such use thereof in public, shall not be deemed a public use or knowledge within the meaning of this Part.

Effect of public use or knowledge of patented invention between application for

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was

(Part I.—Inventions. Secs. 25-29.)

not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification.

patent and application to file specification.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

Effect of like public use or knowledge of unpatented invention.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after admission into the exhibition been publicly used or made publicly known.

Effect of public use or knowledge of invention after admission to an exhibition.

27. (1) An exclusive privilege acquired under this Part shall cease if the Governor General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

Cessation of exclusive privilege by order of the Government.

(2) It shall also cease if a breach of any condition on which the applicant was authorized to file a specification, or on which the term of the exclusive privilege was extended, is on an application under this Part to a High Court proved to the satisfaction of that Court, and if the Governor General in Council thereupon declares the privilege to have ceased.

28. (1) An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease on the revocation or expiration of the patent.

Cessation of exclusive privilege on revocation or expiration of patent.

(2) Such a privilege in respect of an invention for which a patent has not been obtained in the United Kingdom shall cease on the revocation or expiration of any patent or exclusive privilege which has been obtained or acquired for or in respect of the invention in any other country.

29. (1) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him

Suit for infringement

of exclusive
privilege.

under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

(2) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility :

(3) Nor shall it be defended upon the ground that the plaintiff was not the inventor, unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be :

(4) Nor shall it be defended upon the ground that the invention was not new, unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some parts of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

Application
to declare
exclusive
privilege in
respect of an
invention not
to have been
acquired.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention to be specified in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say :—

- (a) that the invention is of no utility, or
- (b) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor thereof, or
- (d) that the original or any amended specification does not fulfil the requirements of this Part, or
- (e) that the applicant has knowingly or fraudulently included in the application for leave to file the specification or in the original or any amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or
- (f) that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or
- (g) that some part of the invention, or the manner in which that part is to be made and used, as described in the original or any amended

(Part I.—Inventions. Secs. 31-34.)

specification, is not thereby sufficiently described, and that this insufficiency was fraudulent and is injurious to the public.

31. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of any part of an invention to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule), that is to say:—

Like application as to part of an invention.

- (a) that that part of the invention is wholly distinct from the other parts thereof and is of no utility, or
- (b) that that part of the invention was not, at the date of the delivery of receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or
- (c) that the applicant was not the inventor of that part of the invention, or
- (d) that that part of the invention, or the manner in which it is to be made and used, is not sufficiently described in the original or any amended specification, and that this insufficiency is injurious to the public.

XIV of 1882. 32. The High Court may, irrespective of any provisions of the Code of Civil Procedure in this behalf, require a person applying for a rule under either of the two last foregoing sections to give security for the payment of all costs incurred or likely to be incurred by any person appearing to show cause against the rule.

Security for costs of application under either of the two last foregoing sections.

33. (1) Any person authorized by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

Application on breach of condition.

(2) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

34. (1) Notice of any rule obtained or proceeding taken under section 30, section 31 or section 33 shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other person.

Notice of proceedings to persons interested.

(2) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering

the copy to any person resident at or in charge of the place or, if there is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

Framing
issue for trial
before other
Court.

35. (1) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31 or section 33, and the issue shall be tried accordingly.

(2) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(3) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon act upon the finding of the District Court, or dispose of the application upon the evidence recorded, or direct a new trial, as the justice of the case may require.

Order on
application.

36. (1) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege.

(2) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file a specification thereof or in the original or any amended specification, erroneously included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency: or

(3) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be

(Part I.—Inventions. Secs. 37-38.)

amended in any particular in which it is erroneous, defective or insufficient; and thereupon the applicant shall, within a time to be limited by the Court for the purpose, file in the office of the Secretary a specification amended according to the order.

(4) The provisions of section 18 with respect to the distribution and disposal of copies of amended specifications, and of section 19 with respect to the effect of such specifications, shall apply, so far as they can be made applicable, to an amended specification filed under this section.

(5) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

37. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his plaint particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention. Delivery of particulars.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 33, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in proof of any breach of the exclusive privilege, or of any ground impeaching the validity of that privilege, or of any objection or ground affecting such a privilege, unless such breach or other matter as aforesaid has been stated in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification thereof, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

38. If, in a suit instituted in the District Court at any time within fourteen years from the date of the filing of a specification of an invention under this Title of actual inventor to

(Part I.—Inventions. Secs. 39-40.)

exclusive
privilege in
case of fraud.

Part, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor, and that at the time of the application for leave to file the specification the applicant knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to other provisions of this Part, in the actual inventor for a term of fourteen years from the date on which the specification was filed, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention or so much of those profits as the Court, having regard to the degree of diligence exerted by the actual inventor in proceeding under this section and to all the other circumstances of the case, may see fit to require the applicant to pay.

Transmission
of copies of
decrees and
orders to
Secretary.

39. A Court making a decree in a suit under section 29 or section 38, or an order on an application under section 30, section 31 or section 33, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

Registration
of cessation
of exclusive
privilege.

40. In the following cases, namely :—

- (a) when an exclusive privilege acquired under this Part has ceased under section 8 or section 15 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period, if any, within which an order might have been made for enlarging the time for the making of the payment has expired ;
- (b) when an exclusive privilege acquired under this Part has been declared by the Governor General in Council under section 27 to have ceased ;
- (c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation or expiration of a patent or exclusive privilege ;
- (d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 36 in consequence of an order under that section ;
- (e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 35 ;

(*f*) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired ;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions, and a reference to that entry to be made in the margin of the entry in that register of the application for leave to file the specification of the invention.

41. (*1*) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

Rectification of register of inventions or address-book.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof and reference thereto to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

42. A High Court to which an application has been made under section 30, section 31, section 33 or section 41 may stay proceedings on, or dismiss, the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

Power to High Court to stay proceedings on or dismiss certain applications.

43. If on the petition of any person interested it is proved to the Governor General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,—

Power for Governor General in Council to require grant of licenses.

- (*a*) the exclusive privilege is not being worked in British India, or
- (*b*) the reasonable requirements of the public with respect to the invention cannot be supplied, or
- (*c*) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

44. Any person for the time being entitled to an exclusive privilege under this Part, or to any share or interest in such a privilege, in any local area

Assignment for particular places.

(Part I.—Inventions. Secs. 45-49.)

may, subject to the conditions of his title thereto, assign the privilege or such share or interest, as the case may be, for any place in or part of that local area.

Subscription
of specifica-
tions and
applications.

45. If an applicant is absent from British India, an application for leave to file a specification, or a specification, or an application for leave to file a memorandum or amended specification, may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorized by him in writing in that behalf.

Verification
of applica-
tions.

46. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

Agents.

47. Subject to the provisions of the two last foregoing sections and of any other enactment for the time being in force, any act which is required or authorized by this Part to be done by any person may be done on his behalf by an agent in British India having authority in writing from that person so to do the act.

Fees.

48. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

Rules and
forms.

49. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof.

PART II.

DESIGNS.

50. In this Part, unless there is something repugnant in the subject or Definitions.
context,—

(1) “design” means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself :

(2) “copyright” means the exclusive right to apply a design to an article :

(3) the author of any new and original design shall be considered the “proprietor” thereof, unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the “proprietor”, and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the “proprietor” of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise : and

(4) “Secretary”, “District Court” and “High Court” have the same meanings as in Part I.

51. (1) Any person, whether a British subject or not, claiming to be the proprietor of any new and original design not previously published in British India, may apply to the Governor General in Council for an order for the registration of the design. Application for order for registration of design.

(2) The application must be in writing in the form or to the effect of the fifth schedule, and must contain a statement of the nature of the design and be accompanied by as many copies of drawings, photographs or tracings thereof, not being fewer than four, as may be required by the rules for the time being in force under this Part.

(3) It must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof in the office of the Secretary shall be endorsed thereon and recorded in that office.

52. (1) Upon the application the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design. Registration in register of designs.

(2) When an order has been made under sub-section (1), the Secretary

(Part II.—Designs. Secs. 53-58.)

shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

Acquisition
of copyright.

53. When a design is registered, the proprietor thereof shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

Marking
registered
designs.

54. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

Effect of ex-
hibiting un-
registered
designs at
exhibitions.

55. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be a new and original design not previously published in British India within the meaning of section 51 by reason only of the design having been exhibited at the exhibition.

Mutation of
names in
register of
designs.

56. Any person in whom the copyright in a design has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, and the Secretary may, if he sees fit, cause the entry to be made.

Suit for in-
fringement
of copyright.

57. (1) The registered proprietor of a design may institute a suit in the District Court for the recovery of any damages arising from the application by any person to any article of the design or of any fraudulent or obvious imitation thereof for the purpose of sale, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an entry thereof to be made in the register of designs.

Registration
of cessation
of copyright

58. When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an

(Part II.—Designs. Secs. 59-62.)

entry with respect to the cessation of the right to be made in the register of designs.

59. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit. Rectification of register of designs.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of designs.

(4) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

60. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court. Power to High Court to stay proceedings on, or dismiss, application for rectification of register.

61. The provisions of the following portions of Part I, namely :—

- (a) section 11, with respect to copies of specifications,
 - (b) section 14, with respect to the register of inventions and the matters entered therein, and
 - (c) section 47, with respect to the performance by an agent of any act required or authorized by that Part to be done by a principal, shall, so far as they can be made applicable, apply, respectively, to—
 - (a) copies of drawings, photographs or tracings accompanying an application for an order for the registration of a design in respect of which such an order has been made,
 - (b) the register of designs and the matters entered and documents referred to therein, and
 - (c) the performance by an agent of any act required or authorized by this Part to be done by a principal.
- Application to this Part of certain provisions of Part I.

62. (1) There shall be paid in respect of the several proceedings specified in the sixth schedule the fees in that schedule prescribed. Fees.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council may direct.

(Part II.—*Designs. Sec. 63. The First Schedule.—Enactments repealed.*
The Second Schedule.—Application where Patent has not been obtained.)

(4) A proceeding in respect of which a fee is payable under the sixth schedule shall be of no effect unless the fee has been paid.

Rules and
forms.

63. The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend the form in the fifth schedule.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2.)

| Number and year. | Subject or title. | Extent of repeal. |
|--------------------|---|-----------------------------------|
| XV of 1859 . . . | For granting exclusive Privileges to Inventors. | So much as has not been repealed. |
| XIII of 1872 . . . | Patterns and Designs Protection Act, 1872. | So much as has not been repealed. |
| XVI of 1883 . . . | Protection of Inventions Act, 1883 . . . | The whole. |
| I of 1879 . . . | Indian Stamp Act, 1879 | Article 48, Schedule I. |

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant is in possession of an invention for (*state the title of the invention*); he is the inventor thereof (*or, as the case may be, the executor, administrator or assign of the inventor*); and, to the best of his information and belief, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorized to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

2. The following is a description of the invention (*here describe it and the particular novelty whereof it consists*).

The Third Schedule.—Application where Patent has been obtained. The

Fourth Schedule.—Fees (Inventions).)

3. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(Signature and verification.)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(See sections 5 and 49.)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of *(here insert name, occupation and address)* for leave to file a specification under Part I of the Inventions and Designs Act, 1888.

1. The applicant *(or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign)* has obtained a patent in the United Kingdom dated and sealed as of the day of , and actually sealed on the day of , for *(state the title of the invention)*.

2. To the best of the information and belief of the applicant, the invention is new within the meaning of Part I of the Inventions and Designs Act, 1888, and no circumstance exists which, if the applicant is authorized to file a specification and files it in accordance with that Part, will disentitle him to an exclusive privilege thereunder in respect of the invention.

3. The following is a description of the invention *(here describe it and the particular novelty whereof it consists)*.

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1888.

(Signature and verification.)

THE FOURTH SCHEDULE.

FEEs *(Inventions)*.

(See sections 8, 15 and 48.)

| | Rs. | A. | P. |
|--|-----|----|----|
| (1) in respect of an application for leave to file a specification (section 5) | 10 | 0 | 0 |
| (2) in respect of the filing of a specification (section 8) | 30 | 0 | 0 |
| (3) in respect of an extension of the time for filing a specification (section 8) | 20 | 0 | 0 |
| (4) in respect of the continuance of an exclusive privilege (section 8)— | | | |
| (a) after the filing of the specification and before the expiration of the fourth year from the date of the filing thereof | 50 | 0 | 0 |

(The Fourth Schedule.—Fees (Inventions).)

THE FOURTH SCHEDULE—*continued.*

| | Rs. | A. | P. |
|--|---|----|----|
| (b) after the expiration of the fourth year and before the expiration of the fifth year from that date | 50 | 0 | 0 |
| (c) after the expiration of the fifth year and before the expiration of the sixth year from that date | 50 | 0 | 0 |
| (d) after the expiration of the sixth year and before the expiration of the seventh year from that date | 50 | 0 | 0 |
| (e) after the expiration of the seventh year and before the expiration of the eighth year from that date | 50 | 0 | 0 |
| (f) after the expiration of the eighth year and before the expiration of the ninth year from that date | 100 | 0 | 0 |
| (g) after the expiration of the ninth year and before the expiration of the tenth year from that date | 100 | 0 | 0 |
| (h) after the expiration of the tenth year and before the expiration of the eleventh year from that date | 100 | 0 | 0 |
| (i) after the expiration of the eleventh year and before the expiration of the twelfth year from that date | 100 | 0 | 0 |
| (j) after the expiration of the twelfth year and before the expiration of the thirteenth year from that date | 100 | 0 | 0 |
| Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due. | | | |
| (5) in respect of an enlargement of the time for payment of a fee under article (4) of this schedule (section 8)— | | | |
| (i) if the enlargement does not exceed one month | 10 | 0 | 0 |
| (ii) if the enlargement exceeds one month, but does not exceed two months | 25 | 0 | 0 |
| (iii) if the enlargement exceeds two months | 50 | 0 | 0 |
| (6) in respect of an application for an extension of an exclusive privilege for a further term (section 15) | 50 | 0 | 0 |
| (7) in respect of an order extending the term of an exclusive privilege (section 15) | 100 | 0 | 0 |
| (8) in respect of the continuance of an exclusive privilege of which the term has been extended (section 15) | 100 | 0 | 0 |
| | to be paid before the expiration of each year of the extended term: | | |
| Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due. | | | |
| (9) in respect of an application for leave to file a memorandum or amended specification (section 18) | 20 | 0 | 0 |
| (10) in respect of a petition to the Governor General in Council for a compulsory license (section 43) | 50 | 0 | 0 |
| (11) for the inspection of any book or other document which is open to inspection under Part I | 1 | 0 | 0 |
| (12) for copies— | | | |
| (a) when the number of words copied does not exceed four hundred | 1 | 0 | 0 |
| (b) for every hundred words in excess of four hundred | 0 | 4 | 0 |
| (c) of drawings or photographs | cost according to agreement. | | |
| (13) for certifying copies— | | | |
| for every hundred words | 0 | 2 | 0 |

(The Fifth Schedule.—Application for Order for Registration of Design.

The Sixth Schedule.—Fees (Designs).)

THE FIFTH SCHEDULE.

APPLICATION FOR ORDER FOR REGISTRATION OF DESIGN.

(See sections 51 and 63.)

The application of (*here insert name, occupation and address*) for an order for the registration of a design under Part II of the Inventions and Designs Act, 1888.

1. The applicant claims to be the proprietor of the design of which the nature is hereinafter stated.

2. To the best of his information and belief, that design is, within the meaning of Part II of the Inventions and Designs Act, 1888, a new and original design not previously published in British India.

3. copies of (*drawings*), (*photographs*), (*tracings*) of the design accompany this application.

4. The following is a statement of the nature of the design (*here describe its nature*).

5. The applicant therefore applies for an order for the registration of the design pursuant to Part II of the Inventions and Designs Act, 1888.

(Signature.)

THE SIXTH SCHEDULE.

FEES (*Designs*).

(See section 62.)

| | Rs. | A. | P. |
|--|------------------------------|----|----|
| (1) in respect of an application for an order for the registration of a design (section 51) | 10 | 0 | 0 |
| (2) in respect of a mutation of names in the register of designs (section 56) | 5 | 0 | 0 |
| (3) for the inspection of any book or other document which is open to inspection under Part II | 1 | 0 | 0 |
| (4) for copies— | | | |
| (a) when the number of words copied does not exceed four hundred | 1 | 0 | 0 |
| (b) for every hundred words in excess of four hundred | 0 | 4 | 0 |
| (c) of drawings, photographs or tracings | cost according to agreement. | | |
| (5) for certifying copies— | | | |
| for every hundred words | 0 | 2 | 0 |

(Secs. 1-4.)

ACT No. VI OF 1888.^a*Received the Governor General's assent on the 23rd March, 1888.*

An Act to amend the law relating to Imprisonment for Debt.

WHEREAS it is expedient to amend the law relating to imprisonment for debt; It is hereby enacted as follows:—

Title, commencement and extent.

1. (1) This Act may be called the Debtors Act, 1888; and

(2) It shall come into force at once.

(3) The several portions thereof have the same local extent as the enactments to which they respectively relate.

Addition of sections after section 245 of the Code of Civil Procedure.

2. After section 245 of the Code of Civil Procedure the following sections XIV of shall be inserted, namely:—

Prohibition of arrest or imprisonment of women in execution of decrees for money.

“245A. Notwithstanding anything in the last foregoing section or in any other section of this Code, the Court shall not order the arrest or imprisonment of a woman in execution of a decree for money.

Discretionary power to permit other judgment-debtors to show cause against imprisonment.

“245B. (1) Notwithstanding anything in section 245 or in any other section of this Code, when an application is for the execution of a decree for money by the arrest and imprisonment of a judgment-debtor who is liable to be arrested in pursuance of the application, the Court may, instead of issuing a warrant for his arrest, issue a notice calling upon him to appear before the Court on a day to be specified in the notice and show cause why he should not be committed to jail in execution of the decree.

“(2) If appearance is not made in obedience to the notice, the Court shall, if the decreeholder so requires, issue a warrant for the arrest of the judgment-debtor.”

Amendment of section 250 of the Code.

3. In section 250 of the said Code, between the word “shall” and the word “issue,” the following shall be inserted, namely:—

“subject to the provisions of sections 245A and 245B,”.

Addition of new section after section 337 of the Code.

4. After section 337 of the said Code the following shall be inserted, namely:—

Proceedings on appear-

“337A. (1) When a judgment-debtor appears before the Court in obedi-

^a This Act (except ss. 9 and 10) has been extended to the Town of Mandalay under s. 5 of the Scheduled Districts Act, 1874—see *Burma Gazette*, 4th August, 1888, Pt. I, p. 362, and *Gazette of India*, 11th *idem*, Pt. I, p. 371.

(Sec. 5.)

ence to a notice issued under section 245B, or is brought before the Court after being arrested in execution of a decree for money, and it appears to the Court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree or, if that amount is payable by instalments, the amount of any instalment thereof, the Court may, upon such terms, if any, as it thinks fit, make an order disallowing the application for his arrest and imprisonment, or directing his release, as the case may be.

ance of judgment-debtor in obedience to notice under section 245B, or after arrest in execution of decree for money.

“(2) Before making an order under sub-section (1), the Court may take into consideration any allegation of the decreeholder touching any of the following matters, namely :—

- (a) the decree being for a sum for which the judgment-debtor was bound as a trustee or as acting in any other fiduciary capacity to account;
- (b) the transfer, concealment or removal by the judgment-debtor of any part of his property after the date of the institution of the suit in which the decree was made, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decreeholder in the execution of the decree;
- (c) any undue or unreasonable preference given by the judgment-debtor to any of his other creditors;
- (d) his refusal or neglect to pay the amount of the decree or some part thereof when he has or since the date of the decree has had the means of paying it;
- (e) the likelihood of his absconding or leaving the jurisdiction of the Court with the object or effect mentioned in clause (b) of this sub-section.

“(3) While any of the matters mentioned in sub-section (2) are being considered, the Court may in its discretion order the judgment-debtor to be imprisoned, or leave him in the custody of an officer of the Court, or release him on his furnishing sufficient security for his appearance on the requisition of the Court.

“(4) A judgment-debtor released under this section may be re-arrested.

“(5) If the Court does not make such an order as is mentioned in sub-section (1), it shall cause the judgment-debtor to be arrested if he has not already been arrested and, subject to the other provisions of this Code, commit him to jail.”

5. To section 380 of the said Code the following shall be added, namely :—

“On the application of any defendant in a suit for money in which the plaintiff is a woman the Court may at any stage of the suit make a like

Addition to section 380 of the Code.

(Secs. 6-10.)

order if it is satisfied that such plaintiff does not possess any sufficient immoveable property within British India independent of the property in suit."

Amendment
of section 640
of the Code.

6. In section 640 of the said Code, after the words "from arrest in execution of civil process" the words "in any case in which the arrest of women is not prohibited by this Code" shall be added.

Amendment
of section 642
of the Code.

7. In section 642 of the said Code, for the words and figures "except as provided in sections 256 and 643" the following shall be substituted, namely:—

"except as provided in section 337A, sub-section (5), and sections 256 and 643".

Addition of
new section
after section
652 of the
Code.

8. After section 652 of the said Code the following shall be added, namely:—

Release on
ground of
illness of
judgment-
debtor.

"653. (1) At any time after a warrant of arrest has been issued under this Code, the Court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

"(2) When a judgment-debtor has been arrested under this Code the Court may release him if in its opinion he is not in a fit state of health to undergo imprisonment.

"(3) When a judgment-debtor has been committed to jail, he may be released therefrom—

(a) by the Local Government, on the ground of his suffering from any infectious or contagious disease, or

(b) by the committing Court, or any Court to which that Court is subordinate, on the ground of his suffering from any serious illness.

(4) A judgment-debtor released under this section may be re-arrested, but the period of his imprisonment shall not in the aggregate exceed that prescribed in section 342 or section 481, as the case may be."

Repeal of
other enact-
ments.

9. The last sixteen words of section 8 of the Married Women's Property Act, 1874, and the whole of section 31 of the Ajmere Courts Regulation, 1871, are hereby repealed. III of 1874,
I of 1877.

Amendment
of parts of
Madras Act
VIII of 1865
and India
Act XII of
1881.

10. (1) For the first fifty-five words of section 48 of the Act of the Governor of Fort St. George in Council, No. VIII of 1865, the following shall be substituted, namely:—

"No person shall be imprisoned as a defaulter for a longer period than six months whatever the amount of the arrears may be, nor for a longer period than six weeks if the arrears do not exceed fifty rupees."

(2) For the proviso to section 163 of the North-Western Provinces Rent Act, 1881, the following shall be substituted, namely:—

“Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed six weeks when the amount decreed (exclusive of costs) does not exceed fifty rupees, or six months in any other case.”

ACT No. VII of 1888.*

Received the Governor General's assent on the 23rd March, 1888.

An Act to amend the Code of Civil Procedure, the Indian Registration Act, 1877, and the Indian Limitation Act, 1877.

WHEREAS it is expedient to amend the Code of Civil Procedure, the

* This Act (except so much thereof as amends the Indian Registration Act, 1877, and the Indian Limitation Act, 1877, which is already in force) has been extended under s. 5 of the Scheduled Districts Act, 1874, to the following Scheduled Districts:—

| | |
|---|--|
| The Districts of Darjeeling and Julpáiguri, and the Mahál of Angul. | See Calcutta Gazette, 14th November, 1888, Pt. I, p. 959, and Gazette of India, 17th idem, Pt. I, p. 524. |
| The Districts of Hazáribágh, Lohardugga and Manbhoom, and the Pergunnah of Dhalbhoom. | ditto. |
| The Pergunnah Jaunsar-Barwar in the Dehra Dún District and the scheduled portion of the Mirzapore District. | See North-Western Provinces Gazette, 27th October, 1888, Pt. I, p. 517, and Gazette of India, 3rd November, 1888, Pt. I, p. 495. |
| The Scheduled Districts of the Central Provinces. | See Central Provinces Gazette, 1st September, 1888, Pt. II, p. 193, and Gazette of India, 8th idem, Pt. I, p. 408. |
| The District of Coorg | See Coorg Gazette, 1st October, 1888, Pt. I, p. 94, and Gazette of India, 8th September, 1888, Pt. I, p. 409. |
| The Andaman and Nicobar Islands | See Andaman and Nicobar Islands Gazette, 3rd November, 1888, and Gazette of India, 10th November, 1888, Pt. II, p. 517. |
| The Province of Sind | See Bombay Gazette, 18th October, 1888, Pt. I, p. 830, and Gazette of India, 27th idem, Pt. I, p. 478. |
| The Jhansi Division (<i>except also s. 63</i>) | See North-Western Provinces Gazette, 27th October, 1888, Pt. I, p. 517, and Gazette of India, 3rd November, 1888, Pt. I, p. 495. |
| The District of Kámrúp, Nowgong (excluding the Mikir Hills Tract), Darrang, Sibságar, Lakhimpur (excluding the Dibrugarh Frontier Tract), Goalpara (excluding the Eastern Dvār-), Sylhet, and Cachar (excluding the North Cachar Hills) (<i>except also s. 63</i>). | See Assam Gazette, 13th October, 1888, Pt. II, p. 405, and Gazette of India, 27th idem, Pt. I, p. 478. |
| The Town of Mandalay (<i>except only s. 65</i>). | See Burma Gazette, 4th August, 1888, Pt. I, p. 362, and Gazette of India, 11th idem, Pt. I, p. 371. |

So much of the Act as amends the Indian Registration Act, 1877, and the Indian Limitation Act, 1877, has, under s. 3 of the Scheduled Districts Act, 1874, been declared in force in the districts of Hazáribágh, Lohardugga and Manbhoom, and in the pergunnah of Dhalbhoom and the Kolhan in Singhbhum—see Calcutta Gazette, 14th November, 1888, Pt. I, p. 959, and Gazette of India, 17th idem, Pt. I, p. 524.

(Secs. 1-6.)

Indian Registration Act, 1877, and the Indian Limitation Act, 1877; It is hereby enacted as follows :—

III of 1877.

XV of 1877.

Title and
commence-
ment.

1. (1) This Act may be called the Civil Procedure Code Amendment Act, 1888; and

(2) It shall come into force on the first day of July, 1888.

Construction.

2. (1) In this Act, unless there is something repugnant in the subject or context, "section" means a section, "schedule" a schedule, and "Chapter" a Chapter, of the Code of Civil Procedure.

XIV of 1882.

(2) Any reference in any enactment heretofore passed or hereafter to be passed to any Act amended by this Act shall, so far as may be, be read as if made to that Act as so amended.

Addition of
new section
after section
4.

3. The following shall be inserted after section 4, namely :—

Power to
modify the
Code in its
application
to Revenue
Courts.

"4A. (1) Where any Revenue Courts are governed by the provisions of the Code of Civil Procedure in those matters of procedure upon which any special enactment applicable to them is silent, the Local Government, with the previous sanction of the Governor General in Council, may, by notification in the official Gazette, declare that any portions of those provisions shall not apply to those Courts, or shall only apply to them with such modifications as the Local Government, with the sanction aforesaid, may prescribe.

"(2) 'Revenue Court' in sub-section (1) means a Court having jurisdiction under any local law to entertain suits relating to the rent, revenue or profits of land used for agricultural purposes, but does not include a Civil Court having original jurisdiction under this Code to try such suits as being suits of a civil nature of which its cognizance is not barred by any enactment for the time being in force."

Repeal of
part of sec-
tion 8.

4. The second paragraph of section 8 is hereby repealed.

Addition to
section 14.

5. To section 14 the following shall be added, namely :—

"Where a suit is instituted in British India on the judgment of any foreign Court in Asia or Africa except a Court of Record established by Letters Patent of Her Majesty or any predecessor of Her Majesty or a Supreme Consular Court established by an Order of Her Majesty in Council, the Court in which the suit is instituted shall not be precluded from inquiry into the merits of the case in which the judgment was passed."

Addition of
new section
after section
16.

6. The following shall be inserted after section 16, namely :—

Place for

"16 A. (1) When it is alleged to be uncertain within the local limits of

(Secs. 7-9.)

the jurisdiction of which of two or more Courts any immoveable property is situate, any one of those Courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction :

institution of suit where local limits of jurisdiction of Courts are uncertain.

“ Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.

“(2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an appellate or revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the appellate or revisional Court shall not allow the objection if in its opinion there was, at the time of the institution of the suit, any reasonable ground for uncertainty as to the Court having jurisdiction with respect thereto.”

7. In section 17, after Explanation II, the following shall be inserted, namely :—

Addition to section 17.

“ EXPLANATION III.—In suits arising out of contract, the cause of action arises within the meaning of this section at any of the following places, namely :—

- (i) the place where the contract was made ;
- (ii) the place where the contract was to be performed or performance thereof completed ;
- (iii) the place where in performance of the contract any money to which the suit relates was expressly or impliedly payable.”

8. In section 27 there shall be inserted after the words “ the Court may ” the words “ at any stage of the suit ”, and after the words “ any other person or persons ” the words “ with his or their consent ”.

Amendment of section 27.

9. For section 53 the following shall be substituted, namely :—

Substitution of new section for section 53.

“ 53. The plaint may, at the discretion of the Court,—

- (a) at, or at any time before, the settlement of issues be rejected if it does not disclose a cause of action ;
- (b) at, or at any time before, the settlement of issues be returned for amendment within a time to be fixed by the Court, and upon such terms as to the payment of costs occasioned by such amendment as the Court thinks fit, if it—

When plaint may be rejected, returned for amendment or amended.

- (i) is not signed and verified as hereinbefore required,

(Secs. 10-12.)

(ii) does not state correctly and without prolixity the several particulars hereinbefore required, or contains particulars other than those so required,

(iii) is wrongly framed by reason of nonjoinder or misjoinder of parties, or joins causes of action which ought not to be joined in the same suit, or

(iv) is not framed in accordance with the provisions of section 42 ;

(c) at any time before judgment be amended by the Court upon such terms as to the payment of costs as the Court thinks fit :

“ Provided that a plaint shall not be amended either by the party to whom it is returned for amendment, or by the Court, so as to convert a suit of one character into a suit of another and inconsistent character.

“ When a plaint is amended under this section the amendment shall be attested by the signature of the Judge.”

Substitution
of new
section for
section 72.

10. For section 72 the following shall be substituted, namely :—

Delivery or
transmission
of summons
for service.

“ 72. (1) If the defendant resides within the jurisdiction of the Court in which the suit is instituted, or has an agent resident within that jurisdiction who is empowered to accept the service of the summons, the summons shall ordinarily be delivered or sent to the proper officer to be served by him or one of his subordinates.

“ (2) The proper officer may be an officer of another Court than that in which the suit is instituted, and, where he is such an officer, the summons may, subject to any rules which the High Court may make in this behalf, be sent to him by post or in such other manner as the Court may direct.”

Amendment
of section 82.

11. In section 82, for the first twenty words the following shall be substituted, namely :—

“ When a summons is returned under section 80, the Court shall, if the return under that section has not been verified by the affidavit of the serving-officer, and may, if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court, touching his proceedings.”

Substitution
of new
section for
section 90.

12. For section 90 the following shall be substituted, namely :—

Service in
foreign
territory
through
British
Resident or
Court.

“ 90. If there is a British Resident or Agent, or a Superintendent appointed by the British Government, or a Court established or continued by the authority of the Governor General in Council, in or for the territory in which the defendant resides, the summons may be sent to such Resident, Agent,

(Sec. 13.)

Superintendent or Court, by post or otherwise, for the purpose of being served upon the defendant; and, if the Resident, Agent or Superintendent or the Judge of the Court returns the summons with an endorsement under his hand that the summons has been served on the defendant in manner hereinbefore directed, such endorsement shall be evidence of the service."

13. For sections 141 and 142 the following shall be substituted, namely :—

Substitution of new sections for sections 141 and 142.

"141. (1) Subject to the provisions of the next following sub-section, there shall be endorsed on every document which has been admitted in evidence in the suit the following particulars, namely :—

Endorsements on documents admitted in evidence.

- (a) the number and title of the suit,
 - (b) the name of the person producing the document,
 - (c) the date on which it was produced, and
 - (d) a statement of its having been so admitted,
- and the endorsement shall be signed by the Judge.

"(2) If a document so admitted is an entry in a book, account or record, and a copy thereof has been substituted for the original under the next following section, the particulars aforesaid shall be endorsed on the copy and the endorsement thereon shall be signed by the Judge.

"141A. (1) If a document admitted in evidence in the suit is an entry in a shop-book or other account in current use, the party on whose behalf the account is produced may furnish a copy of the entry.

Endorsements on copies of admitted entries in books, accounts and records.

"(2) If such a document is an entry in a public record produced from a public office or by a public officer, or an entry in a book or account belonging to a person other than a party on whose behalf the book or account is produced, the Court may require a copy of the entry to be furnished—

- (i) where the record, book or account is produced on behalf of a party, then by that party, or
- (ii) where the record, book or account is produced in obedience to an order of the Court acting of its own motion, then by either or any party.

"(3) When a copy of an entry is furnished under the foregoing provisions of this section, the Court shall, after causing the copy to be examined, compared and attested in manner mentioned in section 62, mark the entry and cause the book, account or record in which it occurs to be returned to the person producing it.

"142. When a document relied on as evidence by either party is considered by the Court to be inadmissible in evidence, there shall be endorsed thereon the particulars mentioned in clauses (a), (b) and (c) of section 141,

Endorsements on documents rejected as

(Secs. 14-18.)

- inadmissible in evidence. sub-section (1), and a statement of its having been rejected, and the endorsement shall be signed by the Judge.
- Recording of admitted and return of rejected documents. "142A. (1) Every document which has been admitted in evidence, or a copy thereof where a copy has been substituted for the original under section 141A, shall form part of the record of the suit.
- "(2) Documents not admitted in evidence shall not form part of the record and shall be returned to the parties respectively producing them."
- Amendment of section 143. 14. In section 143, for the words and figures "sections 62, 141 and 142" there shall be substituted the following, namely :—
- "section 62, section 141A, sub-section (3), or section 142A, sub-section (2)."
- Amendment of section 159. 15. In section 159 the words "or sent" shall be inserted after the word "delivered."
- Amendment of section 168. 16. In section 168, for the words "shall examine the serving-officer on oath" the following shall be substituted, namely :—"shall if the certificate of the serving-officer has not been verified by affidavit, and may if it has been so verified, examine the serving-officer on oath, or cause him to be so examined by another Court."
- Addition of new section after section 185. 17. The following shall be inserted after section 185, namely :—
- Power for Local Government to require evidence to be recorded in English. "185A. (1) The Local Government may, by notification in the official Gazette, direct, with respect to any Judge specified in the notification, or falling under a description set forth therein, that evidence in cases in which an appeal is allowed shall, instead of being taken down in the manner prescribed in the foregoing sections, be taken down by him with his own hand in the English language.
- "(2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.
- "(3) Evidence taken down under sub-section (1) or sub-section (2) shall be taken in the form mentioned in section 182, and be read over and signed, and, as occasion may require, interpreted and corrected, as if it were evidence taken down under that section.
- "(4) The Local Government may, by notification in the official Gazette, revoke or vary a direction notified under sub-section (1)."
- Addition to section 191. Power to deal with evidence 18. For section 191 the following shall be substituted, namely :—
- "191. (1) Where the Judge taking down any evidence, or causing any memorandum to be made, under this Chapter, is prevented by death, transfer

(Secs. 19-24.)

or other cause from concluding the trial of the suit, any successor to such Judge may deal with such evidence or memorandum as if he himself had taken it down or caused it to be made, and proceed with the suit from the stage at which his predecessor left it.

taken down
by another
Judge.

“(2) The provisions of sub-section (1) shall apply, so far as they can be made applicable, to a suit transferred under section 25 :

“Provided that a Court transferring a suit under that section may, if it thinks fit, direct that the Court to which the suit is transferred shall recall all or any of the witnesses who have been examined and take their evidence afresh.”

19. To section 193 the following shall be added, namely :—

Addition to
section 193.

“A Court continuing a suit under section 191 may recall and re-examine a witness who has departed in accordance with section 173.”

20. (1) In section 209, for the first thirteen words the words “When a decree is for the payment of money” shall be substituted.

Amendment
of section
209.

(2) To the same section the following shall be added, namely :—

“Where such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the Court shall be deemed to have refused such interest, and a separate suit therefor shall not lie.”

21. (1) In section 216, for the first twenty-four words the following shall be substituted, namely :—

Amendment
of section
216.

“If the defendant has been allowed a set-off against the claim of the plaintiff,”

(2) To the same section the following shall be added, namely :—

“The provisions of this section shall apply whether the set-off is admissible under section 111 or otherwise.”

22. In section 223, for the words “in a case cognizable by a Court of Small Causes” the following shall be substituted, namely :—

Amendment
of section
223.

“in a suit of which the value as set forth in the plaint did not exceed two thousand rupees and which, as regards its subject-matter, is not excepted by the law for the time being in force from the cognizance of either a Presidency or a Provincial Court of Small Causes”.

23. In section 229, after the word “established” the words “or continued” shall be inserted.

Amendment
of section
229.

24. After section 229 the following shall be inserted, namely :—

Addition of
new section
after section
229.

“229A. So much of the foregoing sections of this Chapter as empowers a Sending of

(Secs. 25-28.)

decrees of
British In-
dian Courts
to British
Courts in
Native
States.

Court to send a decree for execution to another Court shall be construed as empowering a Court in British India to send a decree for execution to any Court established or continued by the authority of the Governor General in Council in the territories of any Foreign Prince or State to which the Governor General in Council has, by notification in the Gazette of India, declared this section to apply."

Repeal of
part of sec-
tion 230.

25. The last paragraph of section 230 is hereby repealed.

Amendment
of section
244.

26. (1) In section 244, for clause (c) the following shall be substituted, namely :—

"(c) any other questions arising between the parties to the suit in which the decree was passed, or their representatives, and relating to the execution, discharge or satisfaction of the decree or to the stay of execution thereof."

(2) To the same section the following shall be added, namely :—

"If a question arises as to who is the representative of a party for the purposes of this section, the Court may either stay execution of the decree until the question has been determined by a separate suit or itself determine the question by an order under this section."

Amendment
of section
258.

27. For the last paragraph of section 258 the following shall be substituted, namely :—

"Unless such a payment or adjustment has been certified as aforesaid, it shall not be recognized as a payment or adjustment of the decree by any Court executing the decree."

Amendment
of section
266.

28. (1) In the first proviso to section 266, clause (a), the words "and bedding" shall be inserted after the word "apparel".

(2) In the same proviso, clause (b), after the word "cattle" the words "and seed-grain" shall be inserted.

(3) In the same proviso, for clause (k) the following shall be substituted, namely :—

"(k) the salary of a public officer or of any servant of a Railway Company or local authority to the extent of—

- (i) the whole of the salary where the salary does not exceed twenty rupees monthly ;
- (ii) twenty rupees monthly where the salary exceeds twenty rupees and does not exceed forty rupees monthly ; and
- (iii) one moiety of the salary in any other case."

(Secs. 29-31.)

(4) To the same proviso, after clause (l), the following shall be added, namely :—

24 & 25 Vict.,
c. 67.

“(m) any allowance declared by any law passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council to be exempt from liability to attachment or sale in execution of a decree ;

“(n) where the judgment-debtor is a person liable for the payment of land-revenue, any moveable property which under any law applicable to him is exempt from sale for the recovery of an arrear of such revenue.”

(5) In the explanation to the same proviso, for the word and letter “and (j)” the letters and word “(j) and (m)” shall be substituted.

29. In section 289 the words “on the spot where the property is attached” are hereby repealed.

Amendment
of section
289.

30. To section 320 the following shall be added, namely :—

Addition to
section 320.

“Rules under this section may confer upon the Collector or any gazetted subordinate of the Collector all or any of the powers which the Court might exercise in the execution of the decree if the execution thereof had not been transferred to the Collector, including the powers of the Court under sections 294 and 312, and may provide for orders passed by the Collector or any gazetted subordinate of the Collector, or orders passed on appeal with respect to such orders, being subject to appeal to and revision by superior Revenue-authorities as nearly as may be as the orders passed by the Court, or orders passed on appeal with respect to such orders, would be subject to appeal to and revision by appellate or revisional Courts under this Code or other law for the time being in force if the decree had not been transferred to the Collector.

“A power conferred by the rules upon the Collector or any gazetted subordinate of the Collector, or upon any appellate or revisional authority, shall not be exercisable by the Court or by any Court in exercise of any appellate or revisional jurisdiction which it has with respect to decrees or orders of the Court.

“In executing a decree transferred to the Collector under this section, the Collector and his subordinates shall be deemed to be acting judicially within the meaning of Act No. XVIII of 1850 (*an Act for the protection of Judicial Officers*).”

31. (1) In section 349, for the words “is under arrest” the words “is in custody under the foregoing provisions of this Code” shall be substituted.

Amendment
of Chapter
XX.

(2) In section 354, between the word “and” and the words “shall

(Secs. 32-33.)

operate" the words "every order under that section appointing a Receiver" shall be inserted.

(3) For the second paragraph of section 360 the following shall be substituted, namely:—

"A Court so invested may entertain an application under section 344 by any person who has been arrested or imprisoned, or against whose property an order of attachment has been made in execution of a decree for money passed by that Court."

(4) At the end of Chapter XX the following shall be inserted, namely:—

"360A. Nothing in this Chapter shall apply to any Court having jurisdiction within the limits of the town of Calcutta, Madras or Bombay."

Inapplicability of this Chapter to presidency towns.
Amendment of Chapter XXI.

Procedure where one of several plaintiffs dies and right to sue does not survive to surviving plaintiffs alone.

32. (1) For sections 363 and 364 the following shall be substituted, namely:—

"363. If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone but survives to him or them and the legal representative of the deceased plaintiff jointly, the Court may cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the suit."

(2) For section 365 the following shall be substituted, namely:—

"365. In case of the death of a sole plaintiff or sole surviving plaintiff, the legal representative of the deceased may, where the right to sue survives, apply to the Court to have his name entered on the record in place of the deceased plaintiff, and the Court shall thereupon enter his name and proceed with the suit."

Procedure in case of death of sole or sole surviving plaintiff.

(3) To section 368 the following shall be added, namely:—

"The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon."

(4) After section 372 the following shall be added, namely:—

"372A. The provisions of section 5 of the Indian Limitation Act, 1877, XV of 1877, applicable to appeals shall apply to applications under sections 365, 366, 368, and 371."

Power for Court to extend period of limitation prescribed for certain applications.
Addition to section 381.

33. To section 381 the following shall be added, namely:—

"or show good cause why such time should be extended, in which case the Court may extend it.

(Secs. 34-37.)

“Where a suit is dismissed under this section, the plaintiff may apply for an order to set the dismissal aside, and, if it is proved to the satisfaction of the Court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the Court shall set aside the dismissal upon such terms as to security, costs or otherwise as it thinks fit, and shall appoint a day for proceeding with the suit.

“The dismissal shall not be set aside unless the plaintiff has served the defendant with notice in writing of his application.

XV of 1877.

“The provisions of the Indian Limitation Act, 1877, with respect to an application under section 103, and of this Code with respect to an appeal from an order rejecting such an application, shall apply, so far as they can be made applicable, to an application under this section for an order to set aside the dismissal of a suit, and to an appeal from an order rejecting such an application, respectively.”

34. In section 386, for the words “or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint” the following shall be substituted, namely:—

Amendment
of section
386.

“or to any pleader or other person whom the Court issuing the commission may, subject to any rules of the High Court in this behalf, think fit to appoint.”

35. In section 419, after the words “Government Pleader in any Court” the words “or such other person as the Local Government may for any Court appoint in this behalf” shall be inserted.

Amendment
of section
419.

36. In section 424, after the words “intending plaintiff” the words “and the relief which he claims” shall be inserted.

Amendment
of section
424.

37. (1) In section 432, after the words “British India” the following shall be inserted, namely:—

Amendment
of section
432.

“or at the request of any person competent in the opinion of the Government to act on behalf of such Prince or Chief”.

(2) To the same section the following shall be added, namely:—

“An appointment under this section may be made for the purposes of a specified suit or of several specified suits, or for the purpose of all such suits as it may from time to time be necessary to prosecute or defend on behalf of the Prince or Chief.

“A person appointed under this section may authorize or appoint persons to make and do appearances, applications and acts in any such suit or suits as if he were himself a party to the suit or suits.”

(Secs. 38-39.)

Substitution
of new sec-
tion for sec-
tion 433.

38. For section 433 the following shall be substituted, namely :—

Suit against
Princes,
Chiefs,
ambassadors
and envoys.

“433. (1) Any such Prince or Chief, and any ambassador or envoy of a Foreign State, may, with the consent of the Governor General in Council, certified by the signature of one of the Secretaries to the Government of India (but not without such consent), be sued in any competent Court.

“(2) Such consent may be given with respect to a specified suit or to several specified suits, or with respect to all suits of any specified class or classes, and may specify, in the case of any suit or class of suits, the Court in which the Prince, Chief, ambassador or envoy may be sued; but it shall not be given unless the Prince, Chief, ambassador or envoy—

(a) has instituted a suit in the Court against the person desiring to sue him, or

(b) by himself or another trades within the local limits of the jurisdiction of the Court, or

(c) is in possession of immoveable property situate within those limits and is to be sued with reference to such possession or for money charged on that property.

“(3) No such Prince, Chief, ambassador or envoy shall be arrested under this Code, and, except with the consent of the Governor General in Council certified as aforesaid, no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy.

“(4) The Governor General in Council may, by notification in the Gazette of India, authorize a Local Government and any Secretary to that Government to exercise, with respect to any Prince, Chief, ambassador or envoy named in the notification, the functions assigned by the foregoing sub-sections to the Governor General in Council and a Secretary to the Government of India, respectively.

“(5) A person may, as a tenant of immoveable property, sue, without such consent as is mentioned in this section, a Prince, Chief, ambassador or envoy from whom he holds or claims to hold the property.”

Transposition
and amend-
ment of sec-
tion 434.

39. (1) Section 434 shall become section 229B, and any reference made before the commencement of this Act in any notification or other document to section 434 shall be read as a reference to section 229B.

“(2) In section 229B, the words “or continued” shall be inserted after the word “established”.

(Secs. 40-47.)

40. After section 433 the following section shall be inserted, namely :—

Insertion of
new section
434.

“ 434. A Sovereign Prince or ruling Chief may sue, and shall be sued, in the name of his State :

Style of
Princes and
Chiefs as
parties to
suits.

“ Provided that in giving the consent referred to in the last foregoing section the Governor General in Council or Local Government, as the case may be, may direct that any such Prince or Chief shall be sued in the name of an agent or in any other name.”

41. To section 464 the following shall be prefixed, namely :—

“ Nothing in this Chapter applies to a Sovereign Prince or ruling Chief suing or being sued in the name of his State or being sued, by direction of the Governor General in Council or a Local Government, in the name of an agent or in any other name, and ”.

Addition to
section 464.
Princes and
Chiefs and
wards of
Court.

42. In section 503, clause (d), the words “ as the Court thinks fit ” shall be inserted after the words “ by way of remuneration ”.

Amendment
of section
503.

43. In section 504, for the words “ the Court may appoint the Collector ” the words “ the Court may, with the consent of the Collector, appoint him ” shall be substituted.

Amendment
of section
504.

44. In section 539, for the words “ having a direct interest ” the words “ having an interest ” shall be substituted.

Amendment
of section
539.

45. To section 540 the following shall be added, namely :—

“ An appeal may lie under this section from an original decree passed *ex parte*.”

Addition to
section 540.

46. To section 549 the following shall be added, namely :—

“ If such security be furnished, any costs for which a surety may have rendered himself liable may be recovered from him in execution of the decree of the Appellate Court in the same manner as if he were the appellant.”

Addition to
section 549.

47. (1) For section 551 the following shall be substituted, namely :—

Substitution
of new sec-
tion for sec-
tion 551.

“ 551. (1) The Appellate Court, if it thinks fit, may, after fixing a day for hearing the appellant or his pleader and hearing him accordingly if he appears on that day, dismiss the appeal without sending notice of the appeal to the Court against whose decree the appeal is made and without serving notice on the respondent or his pleader.

Power to dis-
miss appeal
without
sending
notice to
Lower Court.

“ (2) If on the day fixed under sub-section (1) or any other day to which the hearing may be adjourned the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

“ (3) The dismissal of an appeal under this section shall be notified to the Court against whose decree the appeal is made.”

(Secs. 48-53.)

(2) For the first paragraph of section 552 the following shall be substituted, namely :—

“ Unless the Appellate Court dismisses the appeal under the last foregoing section, it shall fix a day for hearing the appeal.”

(3) In section 558 the words and figures “ section 551, sub-section (2),” shall be inserted before the word and figures “ section 556 ”.

Amendment
of, and addi-
tion to, sec-
tion 561.

48. (1) For the proviso to the first paragraph of section 561 the following shall be substituted, namely :—

“ Provided he has filed the objection in the Appellate Court within one month from the date of the service on him or his pleader under section 553 of notice of the day fixed for hearing the appeal, or within such further time as the Appellate Court may see fit to allow.”

(2) To the same section the following shall be added, namely :—

“ Unless the respondent files with the objection a written acknowledgment from the appellant or his pleader of having received a copy thereof, the Appellate Court shall cause such a copy to be served, as soon as may be after the filing of the objection, on the appellant or his pleader, at the expense of the respondent.

“ The provisions of Chapter XLIV shall, so far as they can be made applicable, apply to an objection under this section.”

Amendment
of section
562.

49. (1) In section 562 the words “ so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties ” are hereby repealed.

(2) In the same section, for the word “ investigate ” the word “ determine ” shall be substituted.

Repeal of
section 563.

50. Section 563 is hereby repealed.

Amendment
of section
565.

51. In section 565, for the word “ shall ” the word “ may ” shall be substituted.

Amendment
of section
566.

52. (1) In section 566 the words “ and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question ” are hereby repealed.

(2) In the same section, between the words “ the Appellate Court may ” and the words “ frame issues ” the words “ if necessary ” shall be inserted.

Amendment
of section
582.

53. (1) In section 582, for the words “ the words ‘ plaintiff,’ ‘ defendant ’ and ‘ suit ’ shall be held to include an appellant, a respondent and an appeal, respectively,” the following shall be substituted, namely :—

“ the word ‘ plaintiff ’ shall be held to include a plaintiff-appellant or

(Secs. 54-60.)

defendant-appellant, the word 'defendant' a plaintiff-respondent or defendant-respondent, and the word 'suit' an appeal".

(2) In the same section, the words and figures "including those of section 372A," shall be inserted after the words "The provisions hereinbefore contained".

54. To section 584 the following shall be added, namely :—

Addition to
section 584.

"An appeal may lie under this section from an appellate decree passed *ex parte*."

55. (1) In section 588, clause (9), for the word "or" the word "for" shall be substituted.

Amendment
of section
588.

(2) In the same section, clause (16), for the words "the first paragraph of" the words "and orders under" shall be substituted.

56. The first paragraph of section 589, and the word "other" in the second paragraph of that section, are hereby repealed.

Repeal of
part of sec-
tion 589.

57. Section 599, and in section 601 the words "within thirty days from the date of the order", are hereby repealed.

Repeal of
section 599
and part of
section 601.

58. After the second paragraph of section 610 the following shall be inserted, namely :—

Addition to
section 610.

"In so far as the order awards costs to the respondent, it may be executed against a surety therefor, to the extent to which he has rendered himself liable, in the same manner as it may be executed against the appellant :

"Provided that such notice in writing as the Court in each case thinks sufficient has been given to the surety."

59. To section 626 the following proviso shall be added, namely :—

Addition to
section 626.

"and

"(c) an application made under section 624 to the Judge who delivered the judgment may, if that Judge has ordered notice to issue under proviso (a) to this section, be disposed of by his successor."

60. After section 646 the following shall be inserted, namely :—

Addition of
new sections
after section
646.

"646A. (1) If at any time before judgment a Court in which a suit has been instituted doubts whether the suit is cognizable by a Court of Small Causes or is not so cognizable, it may submit the record to the High Court with a statement of its reasons for the doubt as to the nature of the suit.

Power to
refer to High
Court ques-
tions as to
jurisdiction
in small
causes.

"(2) On receiving the record and statement the High Court may order the Court either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(Secs. 61-63.)

Power to District Court to submit for revision proceedings had under mistake as to jurisdiction in small causes.

“646B. (1) If it appears to a District Court that a Court subordinate thereto has, by reason of erroneously holding a suit to be cognizable by a Court of Small Causes or not to be so cognizable, failed to exercise a jurisdiction vested in it by law, or exercised a jurisdiction not so vested, the District Court may, and, if required by a party, shall, submit the record to the High Court with a statement of its reasons for considering the opinion of the subordinate Court with respect to the nature of the suit to be erroneous.

“(2) On receiving the record and statement, the High Court may pass such order in the case as it thinks fit.

“(3) With respect to any proceeding subsequent to decree in any case submitted to the High Court under this section, the High Court may make such order as in the circumstances appears to it to be just and proper.

“(4) A Court subordinate to a District Court shall comply with any requisition which the District Court may make for any record or information for the purposes of this section.”

Amendment of, and addition to, section 648.

61. (1) For the third paragraph of section 648 the following shall be substituted :—

“and the Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the latter Court, or unless he furnishes sufficient security for his appearance before the latter Court or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him.”

(2) To section 618 the following shall be added, namely :—

“Where a person to be arrested or moveable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or Bombay, or of the Court of the Recorder of Rangoon, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras, Bombay or Rangoon, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court.”

Amendment of section 650A.

62. In section 650A, the words “or continued” shall be inserted after the word “established”.

Addition to section 652.

63. To section 652 the following shall be added, namely :—

“A High Court not established under the Statute 24 & 25 Victoria, Chapter 104 (*an Act for establishing High Courts of Judicature in India*), may,

(Secs. 64-66.)

from time to time, with the previous sanction of the Local Government, make, with respect to any matter other than procedure, any rule which any High Court so established might under section 15 of that Statute make with respect to any such matter for any part of the territories under its jurisdiction which is not included within the limits of a presidency-town. Rules so made shall be published in the same manner, and shall thereupon have the same force, as rules made and published under this section for the regulation of matters connected with procedure."

64. In form No. 137 of the fourth schedule the words "bound by the decree" shall be inserted after the words "remove any person".

Amendment
of form No.
137, Schedule
IV.

III of 1877. 65. (1) After clause (n) of section 17 of the Indian Registration Act,
VII of 1886. 1877, as amended by the Indian Registration Act, 1886, the following clause shall be added, namely:—

Amendment
of the Indian
Registration
Act, 1877.

"(o) a certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue officer."

(2) In the second paragraph of section 50 of the same Act, for the word and letter "and (n)" the letters and word "(n) and (o)" shall be substituted.

III of 1877. (3) The Indian Registration Act, 1877, shall be construed as if the amendments made in it by this section had been made therein by Act XII of 1879, (*an Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877*):

Provided that nothing in this sub-section shall be deemed to affect a decree or order made by any Court before the commencement of this Act.

XV of 1877. 66. (1) No. 161 of the second schedule to the Indian Limitation Act, 1877, shall be transposed and become No. 173A, and the entry against it in the second column of that schedule shall be "Ditto", signifying ninety days.

Amendment
of the Indian
Limitation
Act, 1877.

(2) Nos. 171, 171A and 171B of the same schedule are hereby repealed.

(3) For No. 171C of the same schedule the following shall be substituted, namely:—

| Description of Application. | Period of Limitation. | Time from which period begins to run. |
|--|-----------------------|--|
| * | * | * |
| "171. Under section 371 of the Code of Civil Procedure, or under that section and section 582 of the same Code, for an order to set aside an order for abatement or dismissal. | Sixty days | The date of the order for abatement or dismissal." |

XIV of 1882.

(Sec. 1.)

(4) After No. 175 of the same schedule the following shall be inserted, namely :—

| Description of Application. | Period of Limitation. | Time from which period begins to run. |
|--|-----------------------|---|
| * | * | * |
| "175A. Under section 365 of the Code of Civil Procedure by the legal representative of a deceased plaintiff, or under that section and section 582 of the same Code by the legal representative of a deceased plaintiff-appellant or defendant-appellant. | Six months | The date of the death of the deceased plaintiff or of the deceased plaintiff-appellant or defendant-appellant. |
| "175B. Under section 366 of the Code of Civil Procedure by a defendant, or under that section and section 582 of the same Code by a plaintiff-respondent or defendant-respondent. | Ditto | The date of the death of the deceased plaintiff or of the deceased defendant-appellant or plaintiff-appellant. |
| "175C. Under section 368 of the Code of Civil Procedure to have the legal representative of a deceased defendant made a defendant, or under that section and section 582 of the same Code to have the legal representative of a deceased plaintiff-respondent or defendant-respondent made a plaintiff-respondent or defendant-respondent. | Ditto | The date of the death of the deceased defendant or of the deceased plaintiff-respondent or defendant-respondent." |

ACT No. VIII of 1888.^a

Received the Governor General's assent on the 5th September, 1888.

An Act to remove doubts as to the legality of the levy of certain Tolls.

WHEREAS doubts have been raised as to the operation of the Acts of the Governor General in Council, No. VIII of 1851 (*an Act for enabling Government to levy Tolls on Public Roads and Bridges*) and No. XV of 1864 (*an Act to amend Act VIII of 1851*); It is hereby enacted as follows :—

1. Acts VIII of 1851 and XV of 1864 shall be deemed to be in force throughout the territories now administered by the Lieutenant-Governor of the Punjab, and, from the twenty-first day of August, 1857, and the twenty-fourth

Enforcement
of Acts VIII
of 1851 and
XV of 1864.

^a This Act has been declared in force in Upper Burma (except the Shan States) under s. 5 of the Scheduled Districts Act, 1874—see *Burma Gazette*, 27th October, 1888, Pt. I, p. 497, and *Gazette of India*, 27th *idem*, Pt. I, p. 478.

1888 : Act X.] *Code of Civil Procedure and Presidency Small
Cause Courts Act Amendment. (Sec. 1.)*

day of March, 1864, respectively, to have been in force in the territories for the time being administered as part of the Punjab. in the Punjab.

2. (1) In any part of British India beyond the limits of the territories administered by the Governor of Fort St. George in Council, and the Lieutenant-Governors of Bengal and the North-Western Provinces, to or in which Acts VIII of 1851 and XV of 1864 may be or have been extended, or may be or have been declared to be in force, under the latter of those Acts or by this Act or by or under any other enactment, the Local Government shall be deemed to have and, where the Acts have been in force before the passing of this Act, to have had the same authority as if it had been included among the Local Governments specified in section 2 of Act VIII of 1851. Operation of the Act in the Punjab and certain other parts of British India.

(2) "Presidency", where that word occurs in section 8 of Act VIII of 1851, shall be deemed to mean, and to have meant, the territories under the administration of a Local Government.

3. All tolls levied, or purporting to have been levied, under Acts VIII of 1851 and XV of 1864, or either of those Acts, before the passing of this Act, shall be deemed to have been lawfully levied. Validation of past levy of tolls.

4. Nothing in the foregoing sections shall affect any proceedings commenced in any Civil Court before the first day of July, 1888. Saving.

5. In section 2 of Act VIII of 1851 the words "and the Governor of the Presidency of Bombay in Council" are hereby repealed, and the word "and" shall be inserted between the words "the Lieutenant-Governor of the North-Western Provinces of Bengal" and the words "the Governor of the Presidency of Fort St. George in Council". Amendment of section 2, Act VIII, 1851.

ACT No. X OF 1888.^a

Received the Governor General's assent on the 20th September, 1888.

An Act to amend the Code of Civil Procedure and the Presidency
Small Cause Courts Act, 1882.

XIV of 1882. WHEREAS it is expedient to amend the Code of Civil Procedure and the
XV of 1882. Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows :—

XIV of 1882. 1. For the second schedule to the Code of Civil Procedure there shall be substituted the schedule in the first schedule to this Act. Revision of the second schedule to Act XIV of 1882.

^a Ss. 1 and 3 of this Act have been extended to the Province of Sind under s. 5 of the Scheduled Districts Act, 1874—see Bombay Gazette, 14th February, 1889, Pt. I, p. 112, and Gazette of India, 16th *idem*, Pt. I, p. 89.

(*Secs. 2-3. The First Schedule to this Act.—The Second Schedule to the Code of Civil Procedure.*)

Amendment
of Act XV
of 1882.

2. (1) To section 23 of the Presidency Small Cause Courts Act, 1882, the XV of 1882.
following shall be added, namely :—"Subject to such control, the Court may
modify or cancel any notification under this section as occasion may appear to
it to require."

(2) For the second schedule to the same Act there shall be substituted
the schedule in the second schedule to this Act.

(3) Any declaration which has been notified under the proviso to section
23 of the Presidency Small Cause Courts Act, 1882, before the day on which
this Act is passed, and which was in force immediately before that day, shall,
subject to the powers of the Court under that section, be construed, so far as
may be, as referring to the schedule which has been substituted by the last
foregoing sub-section for the second schedule to that Act.

Addition to
section 589,
Act XIV of
1882.

3. To section 589 of the Code of Civil Procedure the following shall be XIV of 1882.
added, namely :—

"Provided that an appeal from an order specified in section 588, clause
(17), shall lie—

(a) to the District Court where the order was passed by a Court subor-
dinate to that Court, and

(b) to the High Court in any other case."

Repeal.

(4) Act VIII of 1880 (*an Act to correct a clerical error in the Indian XV of 1877.*
Limitation Act, 1877) and section 26 of the Provincial Small Cause Courts IX of 1887.
Act, 1887, are hereby repealed.

THE FIRST SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE CODE OF CIVIL PROCEDURE.

(*See section 5.*)

CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL
CAUSES.

PRELIMINARY : Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except sec-
tion 11 and the last paragraph of section 14.

CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and
sections 22 to 24 (both inclusive).

CHAPTER III.—Of Parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44,
rule a.

(The First Schedule to this Act.—The Second Schedule to the Code of Civil Procedure.)

CHAPTER V.—Of the Institution of Suits.

CHAPTER VI.—Of the Issue and Service of Summons, except section 77.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Of Discovery and the Admission, &c., of Documents.

CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.

CHAPTER XVIII.—Of Costs, sections 220, 221 and 222.

CHAPTER XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 283 (both inclusive), 284 (so far as relates to moveable property,) 285, 286, 287, 288, 289, 290 (so far as relates to moveable property), 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).

CHAPTER XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction.

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

(The First Schedule to this Act.—The Second Schedule to the Code of Civil Procedure. The Second Schedule to this Act.—The Second Schedule to the Presidency Small Cause Courts Act, 1882.)

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVI.—Suits by Paupers.

CHAPTER XXVII.—Suits by and against Government or Government
 Servants.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native
 Rulers.

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Adminis-
 trators.

CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound
 Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as
 regards Immoveable Property.

CHAPTER XXXVI.—Appointment of Receivers.

CHAPTER XXXVII.—Reference to Arbitration.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties.

CHAPTER XLVI.—Reference to and Revision by High Court.

CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630.

CHAPTER XLIX.—Miscellaneous.

THE SECOND SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE PRESIDENCY SMALL CAUSE COURTS
 ACT, 1882.

(See section 23.)

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

PRELIMINARY: Section 2, Interpretation-clause.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except
 section 11.

CHAPTER II.—Of the Place of Suing, except sections 15 to 19 (both in-
 clusive), section 20, paragraph 4, sections 22, 23
 and 24, and section 25, paragraphs 2 and 3.

(The Second Schedule to this Act.—The Second Schedule to the Presidency Small Cause Courts Act, 1882.)

CHAPTER III.—Of Parties and their Appearances, Applications and Acts except section 37, clause (b), and the last paragraph.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits, except section 53, clause (b), sub-clause (iv), section 55, section 57, clause (b), and sections 58 and 62.

CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words “and the copies or concise statements required by section 58 have been filed,” and sections 65 and 66.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off, except sections 110 112 and 113.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Sending for Records and Production, &c., of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141, 141A, 142, 142A, sub-section (1), 143 and 145.

CHAPTER XI.—Settlement of Issues, sections 150 and 151.

CHAPTER XII.—Disposal of the Suit at the first Hearing, except sections 154 and 155.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive) and the second paragraph of section 193.

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive).

CHAPTER XVIII.—Of Costs.

The Second Schedule to this Act.—The Second Schedule to the Presidency Small Cause Courts Act, 1882.)

CHAPTER XIX.—Of the Execution of Decrees, sections 229, 229A and 229B, section 230, first two clauses, sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).

CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.

CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.

CHAPTER XXIII.—Of Payment into Court.

CHAPTER XXIV.—Of requiring Security for Costs.

CHAPTER XXV.—Of Commissions, except section 396.

CHAPTER XXVII.—Suits by or against Government or Public Officers.

CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433, sub-sections (1), (2), (4) and (5).

CHAPTER XXIX.—Suits by and against Corporations and Companies.

CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.

CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.

CHAPTER XXXII.—Suits by and against Military Men.

CHAPTER XXXIII.—Interpleader.

CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of Immoveable Property.

CHAPTER XXXV.—Interlocutory Orders, sections 498, 499, 500 and 502.

CHAPTER XXXVI.—Appointment of Receivers, section 503.

CHAPTER XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.

CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause (b), as relates to immoveable property.

CHAPTER XLVI.—Of Reference to and Revision by High Court.

CHAPTER XLIX.—Miscellaneous.

ACT No. XI OF 1888.

Received the Governor General's assent on the 5th October, 1888.

An Act to make an addition to the Indian Telegraph Act, 1885.

WHEREAS it is expedient to make an addition to the Indian Telegraph Act, 1885 ; It is hereby enacted as follows :—

1. The following section shall be added to that Act, namely :—

(*Vide supra*, p. 21.)

Addition of
section to
Act XIII of
1885.

ACT No. XVII OF 1888.

Received the Governor General's assent on the 26th October, 1888.

An Act to amend the Indian Marine Act, 1887.

XIV of 1887. WHEREAS it is expedient to amend the Indian Marine Act, 1887 ; It is hereby enacted as follows :—

1. For sub-section (2) of section 2 of the Indian Marine Act, 1887, the following shall be substituted, namely :—

(*Vide supra*, p. 165.)

Amendment
of section 2,
Act XIV of
1887.

APPENDIX.

CHRONOLOGICAL TABLE OF ACTS OF THE GOVERNOR GENERAL IN COUNCIL.

1834-1885.

[NOTE.—(a) Where an Act has been repealed in part, and the residue has been subsequently repealed, the latter repeal only has, as a rule, been noted.
(b) In the case of (1) Acts which have been wholly repealed or are spent, and (2) Acts which apply to the Straits Settlements only, and are therefore not in force within the present limits of British India, the entries in the third and fourth columns are printed in italics.]

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|---|
| 1834 | I | <i>Governor General</i> . . . | <i>Rep., VIII of 1868.</i> |
| | II | Secretaries to Government . . | Printed, General Acts. |
| 1835 | I | <i>Governor of Madras</i> . . . | <i>Rep., VIII of 1868.</i> |
| | II | Assam, <i>Arracan, Tenasserim</i> } | Rep., (as to Arracan and Tenasserim,) XII of 1862. Rep., in part (Assam,) Reg. I of 1886. Printed, Assam Supplement to Bengal Code. |
| | III | <i>Claims under certain Regulations.</i> | <i>Rep., VIII of 1868.</i> |
| | IV | <i>Justices of the Peace, Calcutta</i> | <i>Rep., VIII of 1868.</i> |
| | V | <i>District Munsifs, Madras</i> . . | <i>Rep., VIII of 1868.</i> |
| | VI | <i>Khási Hills</i> and Cachar } | Rep., (as to Khási Hills), XXII of 1869. Rep., in part, (Assam,) Reg. I of 1886. Printed, Assam Supplement to Bengal Code. |
| | VII | <i>Sessions Judges</i> | <i>Rep., VIII of 1868.</i> |
| | VIII | <i>Sales in Satisfaction of Decrees for Rent.</i> | <i>Rep., XVI of 1874.</i> |
| | IX | <i>Salt Chaukis, Bengal</i> . . . | <i>Rep., XII of 1876.</i> |
| | X | <i>Proof of Acts of Governor General in Council.</i> | <i>Rep., II of 1855.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|---|
| 1835 | XI | <i>Printing-presses . . .</i> | <i>Rep., XXV of 1867.</i> |
| | XII | <i>Repealing Madras Regulations IV, 1829, and IV, 1830.</i> | <i>Rep., VIII of 1868.</i> |
| | XIII | <i>S. F. Adalat, Bombay . . .</i> | <i>Rep., XVII of 1862.</i> |
| | XIV | <i>Magistrates, Bombay . . .</i> | <i>Rep., VIII of 1868.</i> |
| | XV | <i>Evidence: Contempt: Perjury: Madras.</i> | <i>Rep., XVII of 1862.</i> |
| | XVI | <i>Partial repeal of Bengal Regulation V, 1830, section 2.</i> | <i>Rep., VIII of 1868.</i> |
| | XVII | <i>Silver and Gold Coinage . . .</i> | <i>Rep., XXIII of 1870.</i> |
| | XVIII | <i>Chaprâsis</i> | <i>Rep., XVII of 1862.</i> |
| | XIX | <i>Assistant to Agent for Sardârs in Dekkhan.</i> | Printed, Bombay Code. |
| | XX | <i>Police, Bombay</i> | <i>Rep., XVII of 1862.</i> |
| | XXI | <i>Copper Coinage</i> | <i>Rep., XIII of 1862.</i> |
| 1836 | I | <i>Light-house Funds, Cambay . . .</i> | <i>Rep., XVII of 1858.</i> |
| | II | <i>Customs-duties, Bombay . . .</i> | <i>Rep., VIII of 1868.</i> |
| | III | <i>Cattle-duty, Salsette</i> | <i>Rep., VIII of 1868.</i> |
| | IV | <i>Insolvent Debtors</i> | <i>Rep., VIII of 1868.</i> |
| | V | <i>Enforcement of Decrees, Bengal.</i> | <i>Rep., VIII of 1868.</i> |
| | VI | <i>Prisoners under Mad. Reg. III, 1802, s. 22.</i> | <i>Rep., XVII of 1862.</i> |
| | VII | <i>Municipal Taxes, Bombay</i> | <i>Rep., VIII of 1868, except as regards duties leviable on salt or opium.</i> <i>Amended (as to references), I of 1878.</i> <i>Printed, Bombay Code.</i> |
| | VIII | <i>Principal Sadr Amins, &c., Bengal.</i> | |
| | IX | <i>Oaths</i> | <i>Rep., X of 1873.</i> |
| | X | <i>Indigo Contracts, Lower Provinces and N.-W. Provinces</i> | <i>Rep., in part, VIII of 1863;</i> <i>XIV of 1870;</i> <i>XVI of 1874.</i> <i>Printed, Bengal Code.</i> <i>N.-W. Provinces Code.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|--|
| 1836 | XI | <i>Non-exemption from jurisdiction of certain Courts.</i> | <i>Rep., VIII of 1868.</i> |
| | XII | <i>Decrees of Nawáb of Farakábád.</i> | <i>Rep., XIII of 1860.</i> |
| | XIII | <i>Sicca Rupees : Pice . . .</i> | <i>Rep., VIII of 1868.</i> |
| | XIV | <i>Customs-duties, Bengal . . .</i> | <i>Rep., XIII of 1871.</i> |
| | XV | <i>Sabáthi</i> | <i>Rep., XXXII of 1850.</i> |
| | XVI | <i>Vakil in Addl. Govt. Commissioner's Office, Madras.</i> | <i>Rep., VIII of 1868.</i> |
| | XVII | <i>Begam Samrú</i> | <i>Rep., VIII of 1868.</i> |
| | XVIII | <i>Bhor Ghát Toll</i> | <i>Rep., II of 1837.</i> |
| | XIX | <i>Bank of Bengal</i> | <i>Rep., VIII of 1868.</i> |
| | XX | <i>Batwáras, Bengal</i> | <i>Rep., (Bengal,) Ben. Act VIII of 1876. Rep., (Assam,) Reg. I of 1886. Not reprinted.</i> |
| | XXI | <i>Zilas, Bengal and N.-W. Provinces.</i> | <i>Rep., in part, XVI of 1874. Rep. (Assam), Reg. I of 1886. Rep. (Punjab), Act XVII of 1887. Printed, Bengal Code ; N.-W. Provinces Code.</i> |
| | XXII | <i>Eastern Canal Tolls, Lower Provinces.</i> | <i>Rep., XII of 1873.</i> |
| | XXIII | <i>Gumsúr and Suráda Zamin-dárs.</i> | <i>Rep., XXIV of 1839.</i> |
| | XXIV | <i>Judicial Officers, Madras and Bombay.</i> | <i>Rep., VIII of 1868.</i> |
| | XXV | <i>Warehousing Ports</i> | <i>Rep., XII of 1873.</i> |
| | XXVI | <i>Governor General's Camp Police.</i> | <i>Rep., in part, XVI of 1874. Printed, General Act.</i> |
| | XXVII | <i>Vakils, Madras</i> | <i>Rep., XI of 1864.</i> |
| | XXVIII | <i>Municipal Assessments, Madras</i> | <i>Rep., XXVI of 1856.</i> |
| | XXIX | <i>Sadr Amins, Madras</i> | <i>Rep., VIII of 1868.</i> |
| | XXX | <i>Thugs</i> | <i>Rep., XVII of 1862.</i> |
| | XXXI | <i>Government Grants, Madras</i> | <i>Rep., XXIII of 1871.</i> |
| | XXXII | <i>Import and Export of Sugar</i> | <i>Rep., XIX of 1854.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|---|
| 1837 | I | <i>Justices of the Peace, Calcutta</i> | <i>Rep., VIII of 1868.</i> |
| | II | <i>Bhor Ghât Tolls, Bombay</i> | <i>Rep., VIII of 1851.</i> |
| | III | <i>Transfer of Suits, Bengal</i> | <i>Rep., XVI of 1874.</i> |
| | IV | Property in Land . . . { | Rep., in part, XVI of 1874. Printed, General Acts. |
| | V | <i>Native Emigrants</i> . . . | <i>Rep., XIV of 1839.</i> |
| | VI | <i>Mālguzárs, Cuttack</i> . . . { | Rep., in part, XIV of 1870 ; XVI of 1874. Printed, Bengal Code. |
| | VII | <i>Charter Courts : Pardons</i> . | <i>Rep., V of 1871.</i> |
| | VIII | <i>Anjengo and Changanacherry, Madras.</i> | <i>Rep., III of 1838.</i> |
| | IX | <i>Succession to Pársis' Immoveable Property.</i> | <i>Rep., VIII of 1868.</i> |
| | X | <i>Claims to Lands, Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | XI | <i>Repealing Bom. Reg. I, 1820, in part.</i> | <i>Rep., VIII of 1868.</i> |
| | XII | <i>Incombustible Roofs, Calcutta</i> | <i>Rep., XIV of 1856.</i> |
| | XIII | <i>Courts-martial</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XIV | <i>Foreign Bottoms</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XV | <i>Chaukidári Assessment</i> . | <i>Rep., XX of 1856.</i> |
| | XVI | <i>Customs</i> | <i>Rep., XII of 1873.</i> |
| | XVII | <i>Post-office</i> | <i>Rep., XVII of 1854.</i> |
| | XVIII | <i>Thugs</i> | <i>Rep., XVII of 1862.</i> |
| | XIX | <i>Competence of Witnesses</i> . | <i>Rep., VIII of 1868.</i> |
| | XX | <i>Immoveable Property, Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | XXI | <i>Office Oaths and Declarations</i> | <i>Rep., X of 1873.</i> |
| | XXII | <i>Revenue-offences, Madras Collectorate.</i> | <i>Rep., XVI of 1874.</i> |
| | XXIII | <i>Principal Sadr Amins, Madras.</i> | <i>Rep., XVII of 1862.</i> |
| | XXIV | <i>Police, Bengal</i> . . . | <i>Rep., VIII of 1868.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments, and references |
|-------|---------|--|--|
| 1837 | XXV | <i>Judiciary System, Bengal</i> . | <i>Rep., XII of 1873.</i> |
| | XXVI | <i>Governor General</i> . . | <i>Rep., VIII of 1868.</i> |
| | XXVII | <i>Salt-duties, Bombay</i> . . | <i>Rep., Bom. Act VII of 1873.</i> |
| | XXVIII | <i>Repeals Bengal Regulation X, 1829, in part.</i> | <i>Rep., VIII of 1868.</i> |
| | XXIX | <i>Language of Judicial and Revenue Proceedings.</i> | <i>Rep., XVI of 1874.</i> |
| | XXX | <i>Police Amins, Madras</i> . . | <i>Rep., XVII of 1862.</i> |
| | XXXI | <i>Coinage</i> | <i>Rep., XIII of 1862.</i> |
| | XXXII | <i>Emigration</i> | <i>Rep., XIV of 1839.</i> |
| | XXXIII | <i>Heads of District Police, Madras.</i> | <i>Rep., XVII of 1862.</i> |
| | XXXIV | <i>Judiciary System, Madras</i> . | <i>Rep., VIII of 1868.</i> |
| | XXXV | <i>Decrees, Madras</i> . . . | <i>Rep., X of 1861.</i> |
| | XXXVI | <i>Criminal Jurisdiction, Madras</i> { | <i>Rep., in part, XIV of 1870 ; XVI of 1874. Printed, Madras Code.</i> |
| | XXXVII | <i>Political Offences, Bombay</i> . | <i>Rep., XVII of 1862.</i> |
| | XXXVIII | <i>Local Agent, Bengal Regulation XIX, 1810.</i> | <i>Rep., VIII of 1868.</i> |
| 1838 | I | <i>Customs, Bombay</i> . . | <i>Rep., I of 1852.</i> |
| | II | <i>Salt, N.-W. P.</i> . . . | <i>Rep., XIV of 1843.</i> |
| | III | <i>Joint Criminal Judge, Cochin</i> | <i>Rep., XVII of 1862.</i> |
| | IV | <i>Perjury, Sadr Diwani Adalat, Bombay.</i> | <i>Rep., VIII of 1868.</i> |
| | V | <i>Bengal Bonded Warehouse</i> { | <i>Rep., in part, V of 1854. Not reprinted.</i> |
| | VI | <i>Enquiries into charges against Public Servants, Bombay.</i> | <i>Rep., XXXVII of 1850.</i> |
| | VII | <i>Zila Judges, Bengal</i> . . | <i>Rep., XVI of 1874.</i> |
| | VIII | <i>Bhor Ghát Tolls</i> . . . | <i>Rep., VIII of 1851.</i> |
| | IX | <i>Fines, Bombay</i> . . . | <i>Rep., XVII of 1862.</i> |
| | X | <i>Kumaon</i> | <i>Rep., XV of 1874.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|--|
| 1838 | XI | Remuneration of Amins effecting Partitions, Bengal and North-Western Provinces. | Rep., in part, XIV of 1870. Rep. (N.-W. P.), XIX of 1863. Rep. (Bengal), Ben. Act VIII of 1876. Rep. (Assam), Reg. I of 1886. Not reprinted. |
| | XII | <i>Hidden Treasure, Madras</i> . | Rep., VI of 1878. |
| | XIII | <i>Power to extend Bengal Regulation XII of 1833.</i> | Rep., I of 1846. |
| | XIV | <i>Ganja and Bhang, Madras</i> . | Rep., VIII of 1868. |
| | XV | <i>Repeal of Bombay Regulation XII, 1827, in part.</i> | Rep., VIII of 1868. |
| | XVI | Suits, Bombay . . . | Rep., in part, XIV of 1870; XVI of 1874; X of 1876; Bom. Act II of 1866; Bom. Act III of 1876. Printed, Bombay Code. |
| | XVII | <i>Appeals from Munsifs, Madras.</i> | Rep., X of 1861. |
| | XVIII | Sureties, Bombay . . . | Rep., in part, XVI of 1874. Residue rep. (locally, Bom. Act V of 1879). Not reprinted. |
| | XIX | Coasting Vessels, Bombay | Rep., in part, XIV of 1870; XVI of 1874; XII of 1876. Printed, Bombay Code. |
| | XX | <i>Post-office</i> | Rep., XVII of 1864. |
| | XXI | <i>Silver Coinage</i> | Rep., XIII of 1862. |
| | XXII | <i>Appeals from Munsifs, Bengal.</i> | Rep., XVI of 1874. |
| | XXIII | <i>Repeal of Madras Regulation IV, 1821, in part.</i> | Rep., XXIII of 1871. |
| | XXIV | <i>Bank of Bengal</i> | Rep., VIII of 1868. |
| | XXV | Wills made between 1st February, 1839, and 1st January, 1866. | Rep. (except as to certain Wills), VIII of 1868. Printed, General Acts. |
| | XXVI | <i>Principal Sadr Amins, Madras.</i> | Rep., XVII of 1862. |
| | XXVII | <i>Judiciary, Bengal</i> . . . | Rep., X of 1861. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|--|
| 1838 | XXVIII | <i>Perjury, Supreme Courts</i> { | <i>Rep. (except as to the Straits), VIII of 1868.</i> <i>Not in force in British India.</i> |
| | XXIX | <i>Salt, Bengal</i> | <i>Rep., XII of 1876.</i> |
| | XXX | <i>Registry of Deeds, Bengal</i> . | <i>Rep., XVI of 1864.</i> |
| | XXXI | <i>Criminal Law : Supreme Courts.</i> | <i>Rep., X of 1875.</i> . |
| | XXXII | <i>Justices of the Peace, Bengal.</i> | <i>Rep., XII of 1873.</i> |
| 1839 | I | <i>Sale of Distresses, Bengal</i> . | <i>Rep., X of 1859.</i> |
| | II | <i>Fines by Magistrates</i> . . | <i>Rep., XVII of 1862.</i> |
| | III | <i>Revenue Courts and Munsifs.</i> | <i>Rep., VIII of 1868.</i> |
| | IV | <i>Theft of Trees, &c., Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | V | <i>Search-warrants, Straits Settlements.</i> | <i>Rep., XIV of 1851.</i> |
| | VI | <i>Bank of Bengal</i> | <i>Rep., IV of 1862.</i> |
| | VII | <i>Tahsildárs, Madras</i> . { | <i>Rep., in part, XIV of 1870 ;</i> <i>XII of 1873.</i> <i>Printed. Madras Code.</i> |
| | VIII | <i>Jágir of Chinchni, Bombay</i> . | <i>Rep., XV of 1874.</i> |
| | IX | <i>Pauper Suits, Bengal</i> . . | <i>Rep., XVI of 1874.</i> |
| | X | <i>War against Allied State Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | XI | <i>Appeals to Queen in Council.</i> | <i>Rep., VIII of 1868.</i> |
| | XII | <i>Assessments and Taxes, Straits Settlements.</i> | <i>Rep., IX of 1848.</i> |
| | XIII | <i>Port-dues, Madras</i> . . . | <i>Rep., XII of 1875.</i> |
| | XIV | <i>Emigration</i> | <i>Rep., XIII of 1864.</i> |
| | XV | <i>Importation of Foreign Sugar, Madras.</i> | <i>Rep., XIX of 1854.</i> |
| | XVI | <i>Government Rents, Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | XVII | <i>Post-office</i> | <i>Rep., XVII of 1854.</i> |
| | XVIII | <i>Thugs</i> | <i>Rep., XVII of 1862.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|---|
| 1839 | XIX | <i>Sentences of Imprisonment, Bombay.</i> | <i>Rep., XVII of 1862.</i> |
| | XX | Levy of Hakks, Bombay | { <i>Rep., in part, XVI of 1874.</i> <i>Printed, Bombay Code.</i> |
| | XXI | <i>Petty Offences, Calcutta</i> | |
| | XXII | <i>Prisoners' Counsel, &c., Supreme Courts.</i> | <i>Rep., X of 1875.</i> |
| | XXIII | <i>Courts-martial</i> | <i>Rep., XXIX of 1861.</i> |
| | XXIV | Ganjam and Vizagapatam | { <i>Rep., in part, XIV of 1870;</i> <i>XVI of 1874;</i> <i>Mad. Act I of 1865.</i> <i>Printed, Madras Code.</i> |
| | XXV | <i>Powers of Collectors, Bombay.</i> | |
| | XXVI | <i>Public Officers, Bengal</i> | <i>Rep., XXXVII of 1850.</i> |
| | XXVII | Execution of Decrees of Judge of 24-Pergunnahs. | <i>Printed, Bengal Code.</i> |
| | XXVIII | <i>Buildings in Bombay and Colába.</i> | <i>Rep., VI of 1857.</i> |
| | XXIX | Dower | { <i>Rep. (except as to certain marriages), VIII of 1868.</i> <i>Printed, General Acts.</i> |
| | XXX | Inheritance | |
| | XXXI | <i>Injuries to the Coin</i> | <i>Rep., VIII of 1868.</i> |
| | XXXII | Interest | <i>Printed, General Acts.</i> |
| 1840 | I | <i>Faujdári Adálat, Madras</i> | <i>Rep., XVII of 1862.</i> |
| | II | <i>Courts-martial</i> | <i>Rep., XXIX of 1861.</i> |
| | III | <i>Bank of Bombay</i> | <i>Rep., Bom. Act X of 1863.</i> |
| | IV | <i>Affrays, Bengal</i> | <i>Rep., XVII of 1862.</i> |
| | V | <i>Oaths</i> | <i>Rep., X of 1873.</i> |
| | VI | <i>Bills of Exchange</i> | <i>Rep., XXVI of 1881.</i> |
| | VII | <i>Deputy and Assistant Registrars to Sadr Courts, Bengal.</i> | <i>Rep., VIII of 1868.</i> |
| | VIII | Pancháyats, Madras . . . | <i>Printed, Madras Code.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1840 | IX | <i>Arbitrations, Damages, Witnesses : Supreme Courts.</i> | <i>Rep., X of 1877.</i> |
| | X | Temple of Jaganath . | { <i>Rep., in part, VIII of 1868 ; XVI of 1874 ; XIV of 1882, s. 539.</i> <i>Not reprinted.</i> |
| | XI | <i>Criminal Law, Bombay</i> . | |
| | XII | <i>Extending Act XII of 1839, Strait Settlements.</i> | <i>Rep., IX of 1848.</i> |
| | XIII | <i>Factors</i> | <i>Rep., IX of 1872.</i> |
| | XIV | <i>Extending 9 Geo. IV, c. 14</i> . | <i>Rep., IX of 1872.</i> |
| | XV | Agents of Foreign Sovereigns, { Bombay. | { <i>Rep., in part, XVI of 1874.</i> <i>Printed, Bombay Code.</i> |
| | XVI | <i>Transported Convicts</i> . . | |
| | XVII | Salt Laws, Madras . | { <i>Rep., in part, XVI of 1874.</i> <i>Amended, VII of 1852 ;</i> <i>Mad. Act II of 1878.</i> <i>Rep. (locally,) Mad. Act VI of 1871 ;</i> <i>Mad. Act I of 1882.</i> <i>Not reprinted.</i> |
| | XVIII | <i>Licenses for Sale of Liquor, Bombay.</i> | |
| | XIX | <i>Appeals by Paupers</i> . . | <i>Rep., XVI of 1874.</i> |
| | XX | <i>Revenue-sales</i> | <i>Rep., VIII of 1868.</i> |
| | XXI | <i>Suits under Ben. Reg. XLIX of 1793.</i> | <i>Rep., VIII of 1868.</i> |
| | XXII | <i>Vagrants, Presidency-towns</i> . | <i>Rep., XIII of 1856.</i> |
| | XXIII | <i>Execution in Presidency-towns of Mufassal Process.</i> | { <i>Rep., in part, X of 1877.</i> <i>Rep., X of 1882.</i> |
| | XXIV | <i>Municipal Rates, Calcutta</i> . | |
| | XXV | <i>Ábkári, Bengal</i> | <i>Rep., XXI of 1856.</i> |
| 1841 | I | <i>Páttidári Estates, Bengal</i> . | <i>Rep., XVI of 1874.</i> |
| | II | <i>Gánja and Bhang, Bombay</i> . | <i>Rep., XXXIV of 1857.</i> |
| | III | <i>Petty Offences, Bombay Town</i> | <i>Rep., XIII of 1856.</i> |
| | IV | <i>Public Conveyances, Bombay Town.</i> | <i>Rep., Bom. Act VI of 1863, s. 33.</i> |
| | V | <i>Trials for State Offences</i> . | <i>Rep., X of 1872.</i> |

| Year. | Number, | Subject or short title. | Repeals, amendments and references. |
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| 1841 | VI | <i>Import of Rum, Bengal</i> | <i>Rep., VI of 1863.</i> |
| | VII | <i>Evidence</i> | <i>Rep., XVI of 1874.</i> |
| | VIII | <i>Interpleader</i> | <i>Rep., X of 1877.</i> |
| | IX | <i>Abkari, Bengal</i> | <i>Rep., XXI of 1856.</i> |
| | X | Registration of Ships | Rep., in part, XI of 1850. XVI of 1874. Amended, XI of 1850; V of 1883, s. 38. Printed, General Acts. |
| | XI | <i>Military Courts of Requests</i> | <i>Rep., VIII of 1887.</i> |
| | XII | Sales of Land for Revenue-arrears. | Rep., in part, I of 1845; XIV of 1870; XVI of 1874. Rep. (N.-W. P.), XIX of 1873; (C. P.), XVIII of 1881; (Assam), Reg. I of 1886. Printed, Bengal Code. |
| | XIII | <i>Explaining Act XXV of 1836</i> | <i>Rep., XII of 1873.</i> |
| | XIV | <i>Markets, Bombay Town</i> | <i>Rep., XIV of 1856.</i> |
| | XV | <i>Repealing Bengal Regulation IX, 1819, s. 7.</i> | <i>Rep., VIII of 1868.</i> |
| | XVI | <i>Oaths of Justices of the Peace</i> | <i>Rep., II of 1869.</i> |
| | XVII | <i>Appeals, Bengal</i> | <i>Rep., XII of 1873.</i> |
| | XVIII | <i>Export of Military Stores</i> | <i>Rep., XI of 1878.</i> |
| | XIX | Curators in cases of Successions. | Rep., in part, VIII of 1855, s. 13, XVI of 1874; XII of 1876. Printed, General Acts. |
| | XX | <i>Collection of Debts on Successions.</i> | <i>Rep., XXVII of 1860.</i> |
| | XXI | <i>Local Nuisances</i> | <i>Rep., XVII of 1862.</i> |
| | XXII | <i>Municipal Rates, Madras Town.</i> | <i>Rep., XXVI of 1856.</i> |
| | XXIII | <i>Import of Rum, Madras</i> | <i>Rep., VI of 1863.</i> |
| | XXIV | Illusory Appointments: Intants' Property. | Rep., in part, XXVII of 1866, VIII of 1868, XVI of 1874. Printed, General Acts. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1841 | XXV | <i>Contempts in Equity</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXVI | <i>Extending 3 & 4 Wm. IV., c. 42.</i> | <i>Rep., X of 1877.</i> |
| | XXVII | Unclaimed Dividends on Insolvents' Estates. | Rep., in part, VIII of 1868; XVI of 1874. Printed, General Acts. |
| | XXVIII | <i>Extending Act XXIII of 1839 to Camp followers.</i> | <i>Rep., XXIX of 1861.</i> |
| | XXIX | <i>Dismissal of Suits and Appeals, Bengal and Madras.</i> | <i>Rep., XII of 1873.</i> |
| | XXX | <i>Obstructions to Justice</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXXI | <i>Criminal Appeals, Bengal</i> . . . | <i>Rep., XVII of 1862.</i> |
| 1842 | I | <i>Sale of Opium, Calcutta</i> . . . | <i>Rep., XI of 1849.</i> |
| | II | <i>Governor General</i> . . . | <i>Rep., VIII of 1868.</i> |
| | III | <i>Extending Act XXI of 1839.</i> | <i>Rep., XIII of 1856.</i> |
| | IV | Boat Regulations, Madras Roads. | Rep., in part, XVI of 1874; Mad. Act II of 1873. Amended, Mad. Act IV of 1869; Mad. Act I of 1877. Printed, Madras Code. |
| | V | <i>Sale of Spirits, Bombay Town</i> | <i>Rep., Bom. Act IX of 1867.</i> |
| | VI | <i>Nipáni Jágir</i> . . . | <i>Rep., XV of 1874.</i> |
| | VII | <i>Repealing Ben. Regs. XIX, 1797, s. 5, and IV, 1803.</i> | <i>Rep., VIII of 1863.</i> |
| | VIII | <i>Sadr Courts</i> . . . | <i>Rep., XVII of 1862.</i> |
| | IX | <i>Extending 4 & 5 Vict., c. 21</i> | Rep., (locally,) IV of 1882. Printed, General Acts. |
| | X | <i>Municipalities, Bengal</i> . . . | <i>Rep., XXVI of 1850.</i> |
| | XI | <i>Foreign Sugar</i> . . . | <i>Rep., XIX of 1854.</i> |
| | XII | <i>Military Bázars</i> . . . | <i>Rep., VIII of 1887.</i> |
| | XIII | <i>Revenue, Bombay</i> . . . | Rep., in part, XVI of 1874. Residue rep. (locally), Bom. Act V of 1879. Not reprinted. |
| | XIV | <i>Nuisances, Bombay Town</i> . . . | <i>Rep., XIV of 1856.</i> |
| | XV | <i>Emigration</i> . . . | <i>Rep., XIII of 1864.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1842 . | XVI | <i>Leases, Bengal</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XVII | Revenue Commissioners, Bom- bay. | { <i>Rep., in part, XIV of 1870.</i> <i>Residue rep. (locally), Bom. Act V</i> <i>of 1879.</i> <i>Not reprinted.</i> |
| | XVIII | <i>Revenue, Bombay</i> . . . | |
| 1843 | I | <i>Registration of Instruments</i> . | <i>Rep., XVI of 1864.</i> |
| | II | <i>Appeals to Sadr Diwāni Adā- lat, Bengal</i> . . . | <i>Rep., XVI of 1874.</i> |
| | III | <i>Special Appeals</i> . . . | <i>Rep., XVI of 1853.</i> |
| | IV | <i>Appeals from Convictions</i> . | <i>Rep., XVII of 1862.</i> |
| | V | Slavery . . . | { <i>Rep., in part, XVI of 1874.</i> <i>Printed, General Acts.</i> |
| | VI | <i>Amins and Munsifs, Bengal</i> . | <i>Rep., XII of 1873.</i> |
| | VII | <i>Courts, Madras</i> . . . | <i>Rep., XII of 1873.</i> |
| | VIII | <i>Provincial Courts of Appeal, Madras.</i> | <i>Rep., VIII of 1868.</i> |
| | IX | <i>Bank of Madras</i> . . . | <i>Rep., Mad. Act V of 1862.</i> |
| | X | <i>Karnūl and Banganapalle</i> . | <i>Rep., XXIII of 1858.</i> |
| | XI | <i>Hereditary Officers, Bombay</i> . | <i>Rep., Bom. Act III of 1874.</i> |
| | XII | <i>Judicial Language</i> . . . | <i>Rep., XVI of 1874.</i> |
| | XIII | <i>Conduct of Public Officers, Madras.</i> | <i>Rep., XXXVII of 1850.</i> |
| | XIV | <i>Inland Customs, N.-W. Prov- inces.</i> | <i>Rep., VIII of 1875.</i> |
| | XV | <i>Deputy Magistrates, Deputy Collectors.</i> | <i>Rep., XII of 1873.</i> |
| | XVI | <i>Repeal, in part, of Ben Regs. IX of 1808 and XVI of 1810.</i> | <i>Rep., VIII of 1868.</i> |
| | XVII | <i>Official Trustees</i> . . . | <i>Rep. (except as to trusts vested under it), XVII of 1864.</i> |
| | XVIII | <i>Thugs and Dacoits</i> . . . | <i>Rep., VIII of 1863.</i> |
| | XIX | <i>Registration of certain Deeds</i> | <i>Rep., XVI of 1864.</i> |
| | XX | <i>Governor General</i> . . . | <i>Rep., VIII of 1868.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1843 | XXI | <i>Emigration</i> . . . | <i>Rep., XIII of 1864.</i> |
| | XXII | <i>Repeal, in part, of Ben. Reg. III of 1793.</i> | <i>Rep., VIII of 1868.</i> |
| | XXIII | <i>Zila Courts in Ceded Provinces.</i> | <i>Rep., VIII of 1868.</i> |
| | XXIV | <i>Dacoity</i> . . . | <i>Rep., XVII of 1862.</i> |
| | XXV | <i>Applying 5 & 6 Vic., c. 47, s. 11.</i> | <i>Rep., XII of 1873.</i> |
| 1844 | I | <i>Nawab of Carnatic</i> . . | <i>Rep., VIII of 1868.</i> |
| | II | <i>Appeals to Queen in Council</i> . | <i>Rep., VI of 1874.</i> |
| | III | <i>Corporal Punishment</i> . . | <i>Rep., XVII of 1862.</i> |
| | IV | <i>Repeal of Ben. Reg. IX of 1808.</i> | <i>Rep., VIII of 1868.</i> |
| | V | <i>Private Lotteries</i> . . | <i>Rep., XXVII of 1870.</i> |
| | VI | <i>Transit and other duties: Salt (Madras).</i> | <i>Rep., in part, VI of 1863; VIII of 1868; XI of 1869; XXIV of 1869; XIII of 1871; XVI of 1874; XVIII of 1877.</i> Printed, Madras Code. |
| | VII | <i>Competence of Witnesses</i> . | |
| | VIII | <i>Native Military Convicts</i> . | <i>Rep., VII of 1850.</i> |
| | IX | <i>Principal Sadr Amins and Sadr Amins.</i> | <i>Rep., XII of 1873.</i> |
| | X | <i>Sentences for Murder</i> . . | <i>Rep., VIII of 1868.</i> |
| | XI | <i>Supreme Court, Fort William</i> | <i>Rep., XIV of 1870.</i> |
| | XII | <i>Indian Navy</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XIII | <i>Trisuli Pice</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XIV | <i>Transportation for Life</i> . | <i>Rep., XVII of 1862.</i> |
| | XV | <i>Customs-duties</i> . . . | <i>Rep., IX of 1845, s. 3.</i> |
| | XVI | <i>Salt-duties, Bombay</i> . . | <i>Rep., XII of 1876.</i> |
| | XVII | <i>Colába</i> . . . | <i>Rep., VIII of 1853.</i> |
| | XVIII | <i>Jails, Bengal</i> . . . | <i>Rep., XXVI of 1870.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1844 | XIX | Town-duties, Bombay . . . | Printed, Bombay Code. |
| | XX | <i>Factors</i> | <i>Rep., IX of 1872.</i> |
| | XXI | <i>Emigration</i> | <i>Rep., XIII of 1864.</i> |
| | XXII | <i>Copper Coinage</i> | <i>Rep., XIII of 1862.</i> |
| 1845 | I | Sales of Land for Revenue- areas, Bengal. | { <i>Rep. (Bengal), XI of 1859 ;</i> <i>(N.-W. P.), XIX of 1873 ;</i> <i>(Punjab), XII of 1873.</i> Not reprinted. |
| | II | <i>Adultery, Bombay</i> . . . | |
| | III | <i>Security for costs in Appeals,</i> <i>Bengal.</i> | <i>Rep., XII of 1873.</i> |
| | IV | <i>Registration of Deeds</i> . . . | <i>Rep., XVI of 1864.</i> |
| | V | <i>Native Law Officers</i> . . . | <i>Rep., XI of 1864.</i> |
| | VI | <i>Commissions of the Peace</i> . . | <i>Rep., II of 1869.</i> |
| | VII | <i>Canals, N - W. Provinces</i> . . | <i>Rep., VIII of 1873.</i> |
| | VIII | <i>Security for Costs in Appeals,</i> <i>Bombay.</i> | <i>Rep., XVI of 1874.</i> |
| | IX | <i>Import-duties</i> | <i>Rep., VIII of 1868.</i> |
| | X | <i>Warrants on Failure to serve</i> <i>Summons.</i> | <i>Rep., XVII of 1862.</i> |
| | XI | <i>Municipal Funds, Bombay</i> <i>Town.</i> | <i>Rep., XXV of 1858.</i> |
| | XII | <i>Assistant Registrar, Sadr</i> <i>Diwani and Sadr Faujdari,</i> <i>Adalat, Bombay.</i> | <i>Rep., VIII of 1868.</i> |
| | XIII | <i>Attorneys, Supreme Court,</i> <i>Bombay.</i> | <i>Rep., VIII of 1869.</i> |
| | XIV | <i>Nazirs in Munsifs' Courts,</i> <i>Bengal.</i> | <i>Rep., XII of 1873.</i> |
| | XV | <i>Native Soldiers</i> | <i>Rep., X of 1872.</i> |
| | XVI | <i>Re-admission of Appeals, Ben-</i> <i>gal and Madras.</i> | <i>Rep., XII of 1873.</i> |
| | XVII | <i>Witnesses in Munsifs' Courts</i> <i>Bengal.</i> | <i>Rep., XII of 1873.</i> |
| | XVIII | <i>Offences by Convicts</i> . . . | <i>Rep., XVII of 1862.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1845 | XIX | <i>Assam Company</i> . . . | <i>Rep., XII of 1873.</i> |
| | XX | <i>Native Army, Articles of War.</i> | <i>Rep. XIX of 1847.</i> |
| | XXI | <i>Meriah Sacrifices</i> . . . | <i>Rep., XVI of 1874.</i> |
| | XXII | <i>Governor General</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXIII | <i>Union Bank</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXIV | <i>Pilot Court, Bengal</i> . . . | <i>Rep., XII of 1859.</i> |
| | XXV | <i>Emigrant Ships, Madras</i> . . . | <i>Rep., XIII of 1864.</i> |
| | XXVI | <i>Spirit Licenses, Calcutta</i> . . . | <i>Rep., XI of 1849.</i> |
| | XXVII | <i>Assistant Magistrates, Bengal</i> | <i>Rep., XVII of 1862.</i> |
| | XXVIII | <i>Supreme Court, Madras</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXIX | <i>Joint Zila and Sessions Judges</i> | <i>Rep., X of 1872.</i> |
| | XXX | <i>Fines in Compensation, Madras.</i> | <i>Rep., XVII of 1862.</i> |
| | XXXI | <i>Pensions of Soldiers, Bombay</i> | <i>Rep., VI of 1849.</i> |
| | XXXII | <i>Distillery Licenses, Madras</i> . . . | <i>Rep., Mad. Act III of 1864.</i> |
| 1846 | I | Pleaders . . . | Rep., in part, XVI of 1874; XII of 1876. |
| | | | Amended, XX of 1853, s. 4. Rep. (locally), XX of 1865; IX of 1884, s. 9. Printed, General Acts. |
| | II | <i>Unscrewed Cotton</i> . . . | <i>Rep., I of 1852.</i> |
| | III | Boundary-marks, Bombay | Rep., in part, Bom. Act I of 1865, s. 50; XVI of 1874. |
| | | | Residue rep. (locally), Bom. Act V of 1879. Ss. 1, 5 and 6 extended to Arakan Hill District with modifications, Reg. IX of 1874. Super-added, V of 1880. Not reprinted. |
| | IV | <i>Execution-sales of Land, Bengal.</i> | <i>Rep., XII of 1873.</i> |
| | V | <i>Surat Police</i> . . . | <i>Rep., VIII of 1868.</i> |
| | VI | <i>Bhatti Territory, N.-W. Provinces.</i> | <i>Rep., IV of 1872.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1846 | VII | <i>Diet-money for Witnesses</i> . | <i>Rep., XVII of 1862.</i> |
| | VIII | <i>Revenue Settlement, N.-W. Provinces.</i> | <i>Rep., XII of 1876.</i> |
| | IX | <i>Boats in Harbours, Madras</i> . | Printed, Madras Code. |
| | X | <i>Distress for Rent, Bengal</i> . | <i>Rep., X of 1859.</i> |
| | XI | <i>Khândesh and Ahmadnagar</i> . | { <i>Rep., in part, XVI of 1874 ;</i> <i>XII of 1876.</i> <i>Rep. (except as to Scheduled Dis-</i> <i>tricts), XIV of 1874.</i> <i>Printed, Bombay Code.</i> |
| 1847 | I | <i>Boundaries, N.-W. Provinces</i> . | { <i>Rep. (N.-W. P.), XIX of 1873 ;</i> <i>(C. P.), XVIII of 1881 ;</i> <i>(Ajmere), Reg. III of 1877.</i> <i>Not reprinted.</i> |
| | II | <i>Explaining Act V of 1840</i> . | <i>Rep., VIII of 1868.</i> |
| | III | <i>Police, Straits Settlements</i> . | <i>Rep., XIII of 1856.</i> |
| | IV | <i>Military Magistrates</i> . | <i>Rep., VIII of 1868.</i> |
| | V | <i>Execution of Sentences of Courts in Native States.</i> | <i>Rep., VIII of 1863.</i> |
| | VI | <i>Copper Currency, Straits Settlements.</i> | { <i>Rep., in part, XVII of 1855.</i> <i>Not in force in British India.</i> |
| | VII | <i>Distresses, Calcutta</i> . | <i>Rep., I of 1875.</i> |
| | VIII | <i>Emigration from Madras Port.</i> | <i>Rep., XIII of 1864.</i> |
| | IX | <i>Assessment of new lands</i> . | { <i>Rep., in part, XIV of 1870 ;</i> <i>XVI of 1874.</i> <i>Rep., in part and amended, Ben.</i> <i>Act IV of 1868.</i> <i>Rep. (Assam), Reg. I of 1886.</i> <i>Printed, Bengal Code.</i> |
| | X | <i>Sentences to Imprisonment for Life.</i> | <i>Rep., XVII of 1862.</i> |
| | XI | <i>Convicts from Hong-kong</i> . | <i>Rep., VIII of 1868.</i> |
| | XII | <i>Fines on Munsifs and Sadr Amins.</i> | <i>Rep., VIII of 1868.</i> |
| | XIII | <i>Emigration to Ceylon</i> . | <i>Rep., XIII of 1864.</i> |
| | XIV | <i>Transcription of Complaints, Bengal.</i> | <i>Rep., VIII of 1868.</i> |
| | XV | <i>Survey of Lands in Calcutta</i> . | <i>Rep., VIII of 1868.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1847 | XVI | <i>Commissioners for Improvement of Calcutta.</i> | <i>Rep., X of 1852.</i> |
| | XVII | <i>Defects in Civil Procedure .</i> | <i>Rep., XII of 1873.</i> |
| | XVIII | <i>Registration of Deeds, Bengal.</i> | <i>Rep., XVI of 1864.</i> |
| | XIX | <i>Articles of War, Native Army</i> | <i>Rep., XXIX of 1861.</i> |
| | XX | Copyright | Rep., in part, XVII of 1862; XIV of 1870; IX of 1871; XVI of 1874; XII of 1876; I of 1879. Printed, General Acts. |
| | XXI | <i>Supreme Court, Bombay .</i> | <i>Rep., VIII of 1868.</i> |
| | XXII | <i>Municipal Commissioners, Calcutta.</i> | <i>Rep., XIV of 1856.</i> |
| | XXIII | <i>Transportation</i> | <i>Rep., VIII of 1868.</i> |
| 1848 | I | <i>Forgery, Bengal</i> | <i>Rep., XVII of 1862.</i> |
| | II | <i>Municipal Commissioners, Calcutta.</i> | <i>Rep., XII of 1852.</i> |
| | III | <i>Meaning of "Thug" and "Thuggee".</i> | <i>Rep., XVII of 1862.</i> |
| | IV | <i>Coroners' Juries</i> | <i>Rep., IV of 1871.</i> |
| | V | <i>Penal Recognizances . .</i> | <i>Rep., XVII of 1862.</i> |
| | VI | <i>Foreign Bottoms</i> | <i>Rep., VIII of 1868.</i> |
| | VII | <i>Amending Act VI of 1848 .</i> | <i>Rep., XII of 1873.</i> |
| | VIII | <i>Amending Ben. Reg. V of 1812.</i> | <i>Rep., X of 1859.</i> |
| | IX | <i>Municipal Rates, Straits Settlements.</i> | <i>Rep., XXVII of 1856.</i> |
| | X | <i>Mandvi, Bombay</i> | <i>Rep., X of 1876.</i> |
| | XI | <i>Wandering Gangs of Thieves</i> | <i>Rep., XVII of 1862.</i> |
| | XII | <i>Commissioners for Recovery of Small Debts, Calcutta.</i> | <i>Rep., VIII of 1868.</i> |
| | XIII | <i>Limitation, Bengal . . .</i> | <i>Rep., VIII of 1868.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|---|
| 1848 | XIV | <i>Commissions to take Affidavits, Supreme Court, Calcutta.</i> | <i>Rep., X of 1877.</i> |
| | XV | Officers of Supreme Courts | { <i>Rep., in part, XII of 1876.</i> <i>Printed, General Acts.</i> |
| | XVI | <i>Salt, N.-W. Provinces . .</i> | <i>Rep., XIV of 1870.</i> |
| | XVII | <i>Stamp-duties, Madras . .</i> | <i>Rep., VII of 1870.</i> |
| | XVIII | <i>Nawáb of Surát . .</i> | { <i>Rep., in part, XIV of 1870.</i> <i>Not repinted.</i> |
| | XIX | <i>Criminal Sentences, Bengal and Madras.</i> | <i>Rep., XVII of 1862.</i> |
| | XX | Attendance before Collectors, Bengal. | { <i>Rep. (Assam), Reg. I of 1886.</i> <i>Printed, Bengal Code.</i> |
| | XXI | <i>Wagers</i> | <i>Rep., IX of 1872.</i> |
| | XXII | <i>Indictments for Forgery .</i> | <i>Rep., VIII of 1868.</i> |
| | XXIII | <i>Amending Act XXV of 1840</i> | <i>Rep., XXI of 1856.</i> |
| | XXIV | <i>Governor General . .</i> | <i>Rep., VIII of 1868.</i> |
| | XXV | <i>Banganapalle, Madras . .</i> | <i>Rep., VIII of 1868.</i> |
| | XXVI | <i>Coroners' Juries, Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | XXVII | <i>Indian Navy</i> | <i>Rep., VIII of 1868.</i> |
| 1849 | I | <i>Offences in Foreign States .</i> | <i>Rep., XI of 1872.</i> |
| | II | <i>Branding Convicts . .</i> | <i>Rep., VIII of 1868.</i> |
| | III | <i>Union Bank, Calcutta . .</i> | <i>Rep., VIII of 1868.</i> |
| | IV | <i>Criminal Lunatics . .</i> | <i>Rep., X of 1875.</i> |
| | V | <i>Customs-duties, Straits Settlements.</i> | <i>Rep., VIII of 1868.</i> |
| | VI | <i>Pensions</i> | <i>Rep., XXIII of 1871.</i> |
| | VII | <i>Administrator General .</i> | { <i>Rep. (except as to letters of administration granted before 1st March, 1855), VIII of 1855, s. 56.</i> |
| | VIII | <i>Police Magistrates, Madras Town.</i> | <i>Rep., XIII of 1856.</i> |
| | IX | <i>Police Magistrates, Madras .</i> | <i>Rep., XVI of 1874.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|--|
| 1849 | X | Commissioner of Revenue, Madras. | Printed, Madras Code. |
| | XI | <i>Abkâri, Calcutta</i> . . . | <i>Rep., Ben. Act VII of 1878.</i> |
| | XII | <i>Sadr Addlat, Bombay</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XIII | <i>Smuggling of Salt, Calcutta</i> . | <i>Rep., XII of 1873.</i> |
| | XIV | <i>Tampering with Army or Navy</i> | <i>Rep., XVII of 1862.</i> |
| | XV | <i>Repealing Bom. Reg. XVIII, 1827, s. 6, cl. 1.</i> | <i>Rep., VIII of 1868.</i> |
| 1850 | I | <i>Title to certain Lands, Calcutta.</i> | <i>Rep., VI of 1857.</i> |
| | II | <i>Extending Act VII of 1849 to Madras and Bombay.</i> | { <i>Rep. (except as to letters of administration granted before 1st March, 1855), VIII of 1855, s. 56.</i> |
| | III | <i>Sadr Amins and District Munsifs, Madras.</i> | |
| | IV | <i>Appeals to Sadr Court, Bengal.</i> | <i>Rep., XV of 1853.</i> |
| | V | <i>Coasting Trade</i> . . . | Printed, General Acts. |
| | VI | <i>Military Offences</i> . . . | <i>Rep., XXIX of 1861.</i> |
| | VII | <i>Removal of Prisoners</i> . . . | <i>Rep., XVII of 1862.</i> |
| | VIII | <i>Appeals</i> . . . | <i>Rep., XII of 1873.</i> |
| | IX | <i>Small Cause Courts, Presidency-towns.</i> | <i>Rep., XV of 1882.</i> |
| | X | <i>Aden</i> . . . | <i>Rep., XII of 1873.</i> |
| | XI | <i>Amending Act X of 1841 (Registration of Ships).</i> | { <i>Rep., in part, XIV of 1870.</i> <i>Printed, General Acts.</i> |
| | XII | <i>Public Accountants</i> . . . | |
| | XIII | <i>Breaches of Trust</i> . . . | { <i>Rep., in part, XIV of 1870.</i> <i>Rep., in part (locally), Bom. Act V of 1879.</i> <i>Rep. (Assam), Reg. I of 1886.</i> <i>Printed, General Acts.</i> |
| | XIV | <i>Police Magistrates, Straits Settlements.</i> | <i>Rep., XIII of 1856.</i> |
| | XV | <i>Munsifs' Courts, Bengal</i> . | <i>Rep., XII of 1873.</i> |
| | XVI | <i>Fines</i> . . . | <i>Rep., XVII of 1862.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1850 . | XVII | <i>Taking Land in Bombay and Colaba.</i> | <i>Rep., VI of 1857.</i> |
| | XXVIII | Protection of Judicial Officers . | Printed, General Acts. |
| | XIX | Binding Apprentices . | Rep., in part, XIV of 1870; XVI of 1874. Printed, General Acts. |
| | XX | Tributary Maháls, Cuttaek . | Printed, Bengal Code. |
| | XXI | Non-forfeiture of Rights by Loss of Caste. | Printed, General Acts. |
| | XXII | <i>Governor General</i> . . | <i>Rep., VIII of 1868.</i> |
| | XXIII | Land-revenue, Calcutta . | Rep., in part and amended, XV of 1882. Printed, Bengal Code. |
| | XXIV | <i>Duty on Tobacco, Bombay Town.</i> | <i>Rep., IV of 1857.</i> |
| | XXV | Forfeiture of Deposits on Land-sales. | Rep., in part, X of 1861; XIV of 1870. Printed, Bengal Code. |
| | XXVI | Improvements in Towns | Rep., in part, XIV of 1870. Rep. (Bengal), Ben. Act V of 1876; (Bombay), Bom. Act VI of 1873; (Sindh), Bom. Act I of 1879; (N.-W. P.), VI of 1868, s. 5; (Punjab), IV of 1873; (locally, Madras), Mad. Act X of 1865. Not reprinted. |
| | XXVII | <i>Registry of Merchant Seamen</i> | <i>Rep., I of 1859.</i> |
| | XXVIII | <i>Merchant Seamen</i> . . | <i>Rep., I of 1859.</i> |
| | XXIX | <i>Amending Act XXXI of 1838</i> | <i>Rep., VIII of 1868.</i> |
| | XXX | <i>Pleaders : Appeals</i> . . | <i>Rep., VIII of 1868.</i> |
| | XXXI | <i>Salt-revenue, Bombay</i> . . | <i>Rep., Bom. Act VII of 1873.</i> |
| | XXXII | <i>Repealing Act XV of 1836</i> . | <i>Rep., VIII of 1868.</i> |
| | XXXIII | Sale of Patni Tenures, Bengal. | Rep., in part, XIV of 1870; XVI of 1874. Printed, Bengal Code. |
| | XXXIV | State Prisoners . . . | Printed, General Acts. |
| | XXXV | <i>Ferries, Bombay</i> . . . | <i>Rep., Bom. Act II of 1868.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|--|
| 1850 | XXXVI | <i>Amending Articles of War for Native Army.</i> | <i>Rep., XXIX of 1861.</i> |
| | XXXVII | Inquiries into Behaviour of Public Servants. | Rep., in part, XIV of 1870 ; XVI of 1874 ; XII of 1876 ; (locally), XVI of 1868. Printed, General Acts. |
| | XXXVIII | <i>Prisoners' Counsel</i> . . . | |
| | XXXIX | <i>Municipal Commissioners, Calcutta.</i> | <i>Rep., VIII of 1868.</i> |
| | XL | <i>Pawnbrokers, Straits Settlements.</i> | <i>Rep., XII of 1876.</i> |
| | XLI | <i>Landing Decrepit Beggars, Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | XLII | <i>Public Works, Bengal</i> . . . | <i>Rep., VI of 1857.</i> |
| | XLIII | <i>Joint Stock Companies</i> . . . | <i>Rep., X of 1866, s. 219.</i> |
| | XLIV | Board of Revenue, Bengal | Rep., in part, XIV of 1870 ; Rep (Assam), Reg. I of 1886. Printed, Bengal Code. |
| | XLV | <i>Coroners</i> | |
| | I | <i>Fines under Act XXIV of 1845.</i> | <i>Rep., XII of 1859.</i> |
| 1851 | II | <i>Amending Ben. Reg. XIII of 1810.</i> | <i>Rep., VIII of 1868.</i> |
| | III | <i>Salt-smuggling</i> | <i>Rep., VIII of 1868.</i> |
| | IV | <i>Deputy and Assistant Magistrates, Bombay.</i> | <i>Rep., XVII of 1862.</i> |
| | V | <i>Turton's Insolvency</i> . . . | <i>Rep., VIII of 1868.</i> |
| | VI | <i>Foras Land, Bombay</i> . . . | <i>Rep., XIV of 1870.</i> |
| | VII | <i>Execution of Decrees, Bombay</i> | <i>Rep., X of 1861.</i> |
| | VIII | Tolls on Roads and Bridges | Rep. in part, XIV of 1870 ; XII of 1876 ; and amended, VIII of 1888, s. 5 ; (locally), XV of 1864 ; Rep. (Bombay), Bom. Act III of 1875. Extended to Upper Burma with modifications, XX of 1886, ss. 6 & 7. Printed, General Acts. |
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| Year. | Number. | Subject or short title. | Reprints, amendments and references. |
|-------|---------|---|---|
| 1851 | IX | <i>Gambling, Bombay Town</i> | <i>Rep., XIII of 1856.</i> |
| | X | <i>Administration Certificates</i> | <i>Rep., XXVII of 1860.</i> |
| | XI | <i>Registration of Deeds, Bengal</i> | <i>Rep., XVI of 1864.</i> |
| | XII | Land-Revenue, Madras Town { | Rep., in part, Mad. Act VI of 1867. Printed, Madras Code. |
| | XIII | <i>Amending Act V of 1851</i> | <i>Rep., VIII of 1868.</i> |
| | XIV | <i>Excise, Straits Settlements</i> | <i>Rep., XXX of 1866.</i> |
| | XV | <i>Cotton-frauds, Bombay</i> | <i>Rep., Bom. Act IX of 1863.</i> |
| | XVI | <i>Receivers of Stolen Goods</i> | <i>Rep., XVII of 1862.</i> |
| 1852 | I | <i>Customs, Bombay</i> | <i>Rep., XIII of 1871.</i> |
| | II | <i>Land-customs, Bombay</i> | <i>Rep., XXIX of 1857.</i> |
| | III | <i>Spirituous Liquors, Bombay</i> { | <i>Rep., in part, XVI of 1874.</i> <i>Rep., Bom. Act V of 1878.</i> |
| | IV | <i>Emigration</i> | <i>Rep., XIII of 1864.</i> |
| | V | <i>Marriage by Registrars</i> | <i>Rep., XV of 1872.</i> |
| | VI | <i>Horsburgh Light-house</i> | <i>Rep., XIII of 1854.</i> |
| | VII | Offences against Salt-laws, Madras. { | Rep., in part, XVI of 1874. Rep. (locally), Mad. Act VI of 1871; Mad. Act I of 1882. Not reprinted. |
| | VIII | <i>Sheriffs' Fees</i> | Printed, General Acts. |
| | IX | <i>Repealing Ben. Reg. I of 1832.</i> | <i>Rep., VIII of 1868.</i> |
| | X | <i>Municipal Commissioners, Calcutta.</i> | <i>Rep., XXVIII of 1856.</i> |
| | XI | Titles to Rent-free Estates, Bombay. { | Rep., in part, XVI of 1874; X of 1876. Application declared, Bom. Act V of 1879, s. 127. Printed, Bombay Code. |
| | XII | <i>Municipal Commissioners, Calcutta.</i> { | <i>Rep. (except s. 50), XIV of 1856.</i> <i>S. 50 rep., XXVIII of 1856.</i> |
| | XIII | <i>Calcutta Police</i> | <i>Rep., XIII of 1856.</i> |
| | XIV | <i>Extending certain Acts to Straits Settlements.</i> { | <i>Rep., in part, XXVII of 1866.</i> <i>Not in force in British India.</i> |
| | XV | <i>Evidence</i> | <i>Rep., I of 1872.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|--------|---------|---|--|
| 1852 | XVI | <i>Criminal Procedure, Supreme Courts.</i> | <i>Rep., X of 1875.</i> |
| | XVII | <i>Special Cases, Supreme Courts</i> | <i>Rep., X of 1877.</i> |
| | XVIII | <i>Pleaders, Lower Provinces .</i> | <i>Rep., XX of 1865.</i> |
| | XIX | <i>Abkari, Madras Town . .</i> | <i>Rep., Mad. Act I of 1886.</i> |
| | XX | <i>Acquisition of Land for Public Purposes, Madras.</i> | <i>Rep., VI of 1857.</i> |
| | XXI | Deputy Collectors, Bombay | <i>Rep., in part, XII of 1873; XII of 1876; Bom. Act I of 1868. Residue rep. (locally), Bom. Act V of 1879. Not reprinted.</i> |
| | XXII | <i>Summary Suits for Arrears of Rent.</i> | |
| | XXIII | <i>Fines, Madras and Bombay .</i> | <i>Rep., XVI of 1874.</i> |
| | XXIV | <i>Crimping</i> | <i>Rep., XIII of 1864.</i> |
| | XXV | <i>Execution of Decrees on Appeal.</i> | <i>Rep., VI of 1874.</i> |
| | XXVI | <i>Sadr Amins and Munsifs .</i> | <i>Rep., XII of 1873.</i> |
| | XXVII | <i>Heads of Villages, Bombay .</i> | <i>Rep., Bom. Act VIII of 1867.</i> |
| | XXVIII | <i>Police, Bombay</i> | <i>Rep., VIII of 1868.</i> |
| | XXIX | <i>Circuits of Judicial Commissioners, Bombay.</i> | <i>Rep., XII of 1873.</i> |
| | XXX | Naturalization of Aliens | <i>Rep., in part, XVI of 1874. XII of 1876. Printed, General Acts.</i> |
| | XXXI | <i>Repealing Ben. Reg. XX of 1817, s. 16, cl. 17.</i> | |
| | XXXII | <i>Prosecution of certain officers</i> | <i>Rep., XVII of 1862.</i> |
| | XXXIII | <i>Enforcement of Judgments</i> | <i>Rep., in part, VII of 1870. X of 1877. Residue rep., VIII of 1887.</i> |
| | XXXIV | <i>Gambling, Straits Settlements</i> | |
| | XXXV | <i>Local Taxation, Akyab and Kyook Phyoo.</i> | <i>Rep., II of 1876.</i> |
| 1853 . | I | <i>Corporal Punishment, Madras and Bombay.</i> | <i>Rep., XVII of 1862.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|--|
| 1853 | II | Public Charges on Land-holders. | Printed, General Acts. |
| | III | <i>Great Indian Peninsula Railway.</i> | <i>Rep., XVIII of 1854, s. 39.</i> |
| | IV | <i>Tobacco Monopoly, Madras .</i> | <i>Rep., VIII of 1868.</i> |
| | V | <i>Amending Act IV of 1839, Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | VI | Summary Suits for Arrears of Rent, &c. | { <i>Rep., in part, XII of 1873 ;</i> <i>Ben. Act VIII of 1865.</i> <i>Printed, Bengal Code.</i> |
| | VII | <i>Jurisdiction of Magistrates .</i> | |
| | VIII | <i>Colába</i> | { <i>Rep., in part, XV of 1874.</i> <i>Residue rep., X of 1876.</i> |
| | IX | <i>Amending Act VI of 1853 .</i> | |
| | X | <i>Amending Act XXII of 1836</i> | <i>Rep., XII of 1873.</i> |
| | XI | Bombay and Colába Shore Nuisances. | { <i>Rep., in part, XXII of 1855.</i> <i>XIV of 1870.</i> <i>Printed, Bombay Code.</i> |
| | XII | <i>Great Indian Peninsula Railway.</i> | |
| | XIII | <i>Vishalghur</i> | <i>Rep., XV of 1874.</i> |
| | XIV | <i>Indian Navy</i> | <i>Rep., VIII of 1868.</i> |
| | XV | <i>Regular Appeals, Bengal .</i> | <i>Rep., XII of 1873.</i> |
| | XVI | <i>Special Appeals</i> | <i>Rep., XII of 1873.</i> |
| | XVII | <i>Imrit Rao's Jágir</i> | <i>Rep., XV of 1874.</i> |
| | XVIII | Sale of Spirits in Cantonments. | { <i>Rep., in part, XVI of 1874 ;</i> <i>Rep. (Bengal), XXII of 1864 ;</i> <i>(Madras), Mad. Act I of 1866, s. 41 ;</i> <i>(Bombay), Bom. Act III of 1867.</i> <i>Printed, General Acts.</i> |
| | XIX | Evidence, Bengal | |
| | | | { <i>Rep., in part, X of 1855 ;</i> <i>X of 1861 ;</i> <i>I of 1872 ;</i> <i>(Oudh), XVIII of 1876.</i> <i>S. 26 : printed, Bengal Code ;</i> <i>N. W.-P. Code ;</i> <i>Oudh Code.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|---|
| 1853 | XX | Pleaders | Rep., in part, XIV of 1870; Rep. (locally), XX of 1865; IX of 1884, s. 9. Printed, General Acts. |
| | XXI | Governor General | Rep., VIII of 1868. |
| 1854 | I | Acquisition of Land, Madras Town. | Rep., VI of 1857. |
| | II | Assessor to Court of Petty Sessions, Bombay Town. | Rep., VIII of 1868. |
| | III | Amending Native Articles of War. | Rep., XXIX of 1861. |
| | IV | Cantonment Bázárs. Bombay | Rep. (locally), Bom. Act III of 1867. Not reprinted. |
| | V | Bengal Bonded Warehouse Association. | Rep., in part, XIV of 1870. Not reprinted. |
| | VI | Supreme Courts, Equity Procedure. | Rep., VIII of 1868. |
| | VII | Fugitive Foreign Offenders . | Rep., XI of 1872. |
| | VIII | Certificates of Administration | Rep., XXVII of 1860. |
| | IX | Civil Appeals | Rep., XII of 1873. |
| | X | Assistant and Deputy Magistrates. | Rep., X of 1872. |
| | XI | Copper Coinage | Rep., XIII of 1862. |
| | XII | District Munsifs, Madras . | Rep., XVII of 1862. |
| | XIII | Lighthouses, Straits Settlements. | Rep., in part, XIV of 1870. Not in force in British India. |
| | XIV | Assam Tea Company | Rep., IV of 1855, s. 14. |
| | XV | Borneo Commission | Rep., VIII of 1868. |
| | XVI | Police, N.-W. Provinces . | Rep., in part, XIV of 1870. Printed, N.-W. Provinces Code. |
| | XVII | Post-office | Rep., XIV of 1866. |
| | XVIII | Railways | Rep., IV of 1879. |
| | XIX | Foreign Sugar | Rep., VIII of 1868. |
| | XX | Agent to Governor General. Rámghar, Jungle Maháls, and Midnápur. | Printed, Bengal Code. |

| Year. | Number. | Subject or short title. | Repeals, amendments, and references. |
|-------|---------|--|--|
| 1854 | XXI | <i>Banks of Bengal, Madras and Bombay.</i> | <i>Rep., as to Bank of Bengal, IV of 1862; as to Bank of Madras, Mad. Act V of 1862; as to Bank of Bombay, Bom. Act X of 1863.</i> |
| | XXII | <i>British Subjects . . .</i> | <i>Rep., VIII of 1868.</i> |
| | XXIII | <i>Outrages in Malabar . . .</i> | <i>Rep., XX of 1859.</i> |
| | XXIV | <i>War-knives, Malabar . . .</i> | <i>Rep., in part, XIV of 1870. Printed, Madras Code.</i> |
| | XXV | <i>Mufussal Treasury Warrants</i> | <i>Rep., VIII of 1868.</i> |
| | XXVI | <i>Court of Wards, Bengal . . .</i> | <i>Rep. (N.-W. P.), XIX of 1873; (Bengal), Ben. Act IV of 1870, s. 86. Printed, Punjab Code; Burma Code.</i> |
| | XXVII | <i>Názim of Bengal . . .</i> | <i>Rep., III of 1883.</i> |
| | XXVIII | <i>Municipal Commissioners, Calcutta.</i> | <i>Rep., XXVIII of 1856.</i> |
| | XXIX | <i>Exportation of Saltpetre . . .</i> | <i>Rep., VIII of 1868.</i> |
| | XXX | <i>Customs-duties, Burma . . .</i> | <i>Rep., XX of 1886.</i> |
| | XXXI | <i>Conveyances of Land . . .</i> | <i>Rep., in part, XIV of 1870; XVI of 1874; XII of 1876. (locally), IV of 1882. Printed, General Acts.</i> |
| | XXXII | <i>Torture, Madras . . .</i> | <i>Rep., VIII of 1868.</i> |
| | XXXIII | <i>Language of Judicial Decisions.</i> | <i>Rep., XVI of 1874.</i> |
| | XXXIV | <i>Electric Telegraphs . . .</i> | <i>Rep., I of 1876.</i> |
| 1855 | I | <i>Governor General . . .</i> | <i>Rep., VIII of 1868.</i> |
| | II | <i>Evidence . . .</i> | <i>Rep., I of 1872.</i> |
| | III | <i>Indian Navy . . .</i> | <i>Rep., VIII of 1868.</i> |
| | IV | <i>Assam Company . . .</i> | <i>Rep., XI of 1866.</i> |
| | V | <i>Execution, Supreme Courts</i> | <i>Rep. (except as to Straits Settlements), VIII of 1868. Not in force in British India.</i> |
| | VI | <i>Execution, Supreme Courts . . .</i> | <i>Rep., X of 1877.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1855 | VII | <i>Arrest on Mesne Process, Supreme Courts.</i> | <i>Rep. (except as to Straits Settlements), VIII of 1868.</i> <i>Not in force in British India.</i> |
| | VIII | <i>Administrator General</i> | <i>Rep., XXIV of 1867.</i> |
| | IX | <i>Regular Appeals, Madras</i> | <i>Rep., X of 1861.</i> |
| | X | <i>Witnesses, Madras and Bombay.</i> | <i>Rep., in part, X of 1861 ;</i> <i>XII of 1873.</i> <i>Printed, Madras Code ;</i> <i>Bombay Code.</i> |
| | XI | <i>Mesne Profits and Improvements.</i> | <i>Rep., in part (locally), IV of 1883.</i> <i>Printed, General Acts.</i> |
| | XII | <i>Suits for Wrongs : Executors and Administrators.</i> | <i>Rep., in part, IX of 1871.</i> <i>Printed, General Acts.</i> |
| | XIII | <i>Compensation for Loss occasioned by Death.</i> | <i>Rep., in part, IX of 1871.</i> <i>Printed, General Acts.</i> |
| | XIV | <i>Military Bazaris, Madras</i> | <i>Rep., XVI of 1874.</i> |
| | XV | <i>Joint Police-officers, Bombay</i> | <i>Rep., XVII of 1862.</i> |
| | XVI | <i>Use of Badges, Bombay</i> | <i>Rep., XVII of 1862.</i> |
| | XVII | <i>Copper Currency, Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | XVIII | <i>Pardons and Reprieves</i> | <i>Rep., XVI of 1874.</i> |
| | XIX | <i>District Munsifs, Madras</i> | <i>Rep., VIII of 1868.</i> |
| | XX | <i>Boundary-marks, Madras</i> | <i>Rep., XXVIII of 1860.</i> |
| | XXI | <i>Minors, Madras</i> | <i>Printed, Madras Code.</i> |
| | XXII | <i>Ports and Port-dues</i> | <i>Rep., XII of 1875.</i> |
| | XXIII | <i>Administration of Mortgaged Estates.</i> | <i>Rep., in part, XVI of 1874.</i> <i>(except as to descents or devises before 1866), VIII of 1868.</i> <i>Printed, General Acts.</i> |
| | XXIV | <i>Penal Servitude</i> | <i>Rep., in part, XII of 1867 ;</i> <i>XIV of 1870 ;</i> <i>V of 1871 ;</i> <i>XVI of 1874 ;</i> <i>XII of 1876.</i> <i>Printed, General Acts.</i> |
| | XXV | <i>Sessions at Ootakamund</i> | <i>Rep., VIII of 1868.</i> |
| | XXVI | <i>Government Savings Banks</i> | <i>Rep., V of 1873.</i> |

| Year | Number. | Subject or short title. | Repeals, amendments and references. |
|------|---------|---|--|
| 1855 | XXVII | <i>Banks of Bengal, Madras and Bombay.</i> | <i>Rep., as to Bank of Bengal, IV of 1862; as to Bank of Madras, Mad. Act V of 1862; as to Bank of Bombay, Bom. Act X of 1863.</i> |
| | XXVIII | Repeal of Usury Laws . | <i>Rep., in part, XIV of 1870. Printed, General Acts.</i> |
| | XXIX | <i>Amending Act VI of 1844 .</i> | <i>Rep., XII of 1873.</i> |
| | XXX | <i>Repealing Act XXVIII of 1839, s 7.</i> | <i>Rep., VIII of 1868.</i> |
| | XXXI | <i>Emigration to St. Lucia and Grenada.</i> | <i>Rep., XIII of 1864.</i> |
| | XXXII | Embankments, Bengal . | <i>Rep., in part, XIV of 1870; XVI of 1874; Rep. (locally), Ben. Act VI of 1873; Printed, Bengal Code.</i> |
| | XXXIII | <i>Exportation of Saltpetre .</i> | <i>Rep., VIII of 1868.</i> |
| | XXXIV | <i>Execution of Judgments</i> | <i>Rep., X of 1877.</i> |
| | XXXV | <i>Import of Cotton, N.-W. Provinces.</i> | <i>Rep. VIII of 1868</i> |
| | XXXVI | <i>Contraband Salt, N.-W. Provinces.</i> | <i>Rep., VIII of 1875.</i> |
| | XXXVII | Santhal Districts . . . | <i>Rep., in part, XIV of 1870, Rep., XIV of 1874 (when notified) Amended, X of 1857. Printed, Bengal Code.</i> |
| | XXXVIII | <i>Rebellion in Berhroom, &c. .</i> | <i>Rep., VIII of 1868.</i> |
| 1856 | I | <i>Obscene Books and Pictures</i> | <i>Rep., XVII of 1862.</i> |
| | II | <i>Offences affecting the Public .</i> | <i>Rep., XVII of 1862.</i> |
| | III | <i>Abkhari: Calcutta, Madras Town.</i> | <i>Rep. (Calcutta), Ben. Act II of 1876; (Madras), Mad Act I of 1886.</i> |
| | IV | <i>Cattle-Killing</i> | <i>Rep., XVII of 1862.</i> |
| | V | <i>Extending Act XXIII of 1854</i> | <i>Rep., XX of 1859.</i> |
| | VI | <i>Patents</i> | <i>Rep., IX of 1857 (but saved as to acts done under it—see Act XV of 1859, s. 36).</i> |
| | VII | <i>Water-supply, Bombay Town.</i> | <i>Rep., VIII of 1868.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|---|
| 1856 | VIII | Jails, <i>Madras</i> and Bombay | Rep., in part,, XIV of 1870; XII of 1876; Rep. (Madras), Mad. Act V of 1869. Printed, Bombay Code. |
| | IX | Bills of Lading . . . | Printed, General Acts. |
| | X | <i>Native Articles of War</i> . . . | Rep., XXIX of 1861. |
| | XI | European Deserters . . . | Rep., in part, XIV of 1870; XII of 1873; XVI of 1874. Printed, General Acts. |
| | XII | Civil Court Amins, Bengal | Rep., in part, X of 1861; XIV of 1870; X of 1873; XII of 1873. Amended, XIX of 1886. Printed, Bengal Code; N.-W. Provinces Code. |
| | XIII | Police, Presidency-towns | Rep., in part, XLVIII of 1860; XIV of 1870; XVI of 1874; XII of 1875; IV of 1877; (Calcutta), Ben. Act IV of 1866; (Madras). Mad. Act VIII of 1867, s 81. Amended in Bombay— Bom. Act I of 1872; Bom. Act II of 1879. Printed, Bombay Code. |
| | XIV | <i>Conservancy, Presidency- towns.</i> | Rep., XVI of 1874. |
| | XV | Remarriage of Hindu Widows | Printed, General Acts. |
| | XVI | <i>Port-dues</i> | Rep., VIII of 1868. |
| | XVII | <i>Criminal Process</i> | Rep., XVII of 1862. |
| | XVIII | Collector of Calcutta . . . | Rep., in part, XVIII of 1869. Printed, Bengal Code. |
| | XIX | <i>Emigration</i> | Rep., XVI of 1874. |
| | XX | Police Chaukidás, Bengal | Rep., in part, XIV of 1870; X of 1872. Rep., in part, and amended— (except in Bengal), XXII of 1871; (Oudh), XVIII of 1876; |

| Year. | Number | Subject or short title. | Repeals, amendments and references. |
|-------|--------|--|--|
| 1856 | XX | Police Chaukidárs, Bengal— <i>contd.</i> | Rep. (N.-W. P. and Oudh), XV of 1883, s. 17. (Punjab except certain Cantonments), XX of 1883, s. 69, (Bengal), Ben Act V of 1876.* Printed, N.-W. Provinces Code; Punjab Code, Oudh Code; Ajmers Code. |
| | XXI | <i>Abkár, Bengal</i> . . . | Rep. (except in Bengal), X of 1871; (Bengal, Ben. Act VII of 1878). |
| | XXII | Tolls, Kurratiya River . . . | Printed, Bengal Code. |
| | XXIII | <i>Recovery of Revenue-arrears, Madras.</i> | Rep., XXXIX of 1858. |
| | XXIV | <i>Bengal Mariners, &c., Society</i> | Rep., VIII of 1868. |
| | XXV | <i>Municipal Rates, Presidency-towns.</i> | Rep., XVI of 1874. |
| | XXVI | <i>Municipal Commissioners, Madras Town.</i> | Rep., Mad. Act IX of 1865. |
| | XXVII | <i>Municipal Commissioners, { Straits Settlements.</i> | Rep., in part, XVII of 1863. Not in force in British India. |
| | XXVIII | <i>Municipal Commissioners, Calcutta.</i> | Rep., Ben. Act VI of 1863. |
| | XXIX | <i>Oaths by Registrars of Deeds</i> | Rep., XVI of 1864. |
| 1857 | I | <i>Native Passenger Vessel</i> . . . | Rep., VIII of 1868. |
| | II | <i>University, Calcutta</i> . . . | Rep., in part, XII of 1876. Printed, Bengal Code. |
| | III | <i>Cattle trespass</i> . . . | Rep., I of 1871. |
| | IV | <i>Tabacco, Bombay Town</i> . . . | Rep., in part, XIV of 1870; XVI of 1874; XII of 1876. Printed, Bombay Code. |
| | V | <i>Oriental Gas Company</i> . . . | Amended, Act XI of 1867. Not reprinted. |
| | VI | <i>Acquisition of Land for Public Purpose</i> | Rep., X of 1870. |

* Notwithstanding the total repeal which Ben Act V of 1876 purports to effect, Act XX 1856 must be deemed to be still in force in Bengal for the purposes of the Cantonment Act—see Act III of 1880, s. 12, which takes the place of Act XXII of 1864, s. 14.

| Number. | Subject or short title | Repeals, amendments and references. |
|---------|---|---|
| VII | Uncovenanted Agency, Madras. | Rep., in part, XVII of 1862; X of 1873, XII of 1873. Printed, Madras Code. |
| VIII | <i>Courts-Martial</i> . . . | Rep., XXIX of 1861. |
| IX | <i>Repealing Act VI of 1856</i> . | Rep., VIII of 1868. |
| X | Santhal District . . . | Rep., in part, XIV of 1870; Rep., XIV of 1874 (when notified). Printed, Bengal Code. |
| XI | State Offences . . . | Rep., in part, XVII of 1862; XII of 1876. Printed, General Acts. |
| XII | <i>Piratical Junks, Strants Settlements.</i> | Not in force in British India. |
| XIII | Opium, Bengal . . . | Rep., in part, XIV of 1870; I of 1878. (C. P.), XX of 1875. Rep., in part, and amended (Oudh), XVIII of 1876. Printed, Bengal Code; N.-W. P. Code; Oudh Code; Central Provinces Code. |
| XIV | <i>Military and State Offences</i> . | Rep., VIII of 1868. |
| XV | <i>Printing Presses</i> . . . | Rep., VIII of 1868. |
| XVI | <i>Heinous Offences</i> . . . | Rep., VIII of 1868. |
| XVII | <i>Mutineers and Deserters</i> . | Rep., VIII of 1868. |
| XVIII | <i>Family, &c., of Nawab of Carnatic.</i> | Rep., VIII of 1868. |
| XIX | Joint-stock Companies . | Rep. (except as to Table B, which is unrepealed as to Companies existing on 1st May, 1882— see Act VI of 1882), X of 1866. Table B, printed, General Acts. |
| XX | <i>Amending Act IX of 1850</i> . | Rep., XV of 1882. |
| XXI | Suburbs of Calcutta and Howrah. | Rep., in part, XVI of 1874; Ben. Act I of 1864; Ben. Act III of 1864; Ben. Act V of 1876; Ben. Act III of 1884; Rep., locally, Ben. Act VIII of 1868, Ben. Act II of 1866; (Oudh), XVIII of 1876. Printed, Bengal Code. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---------------------------------------|---|
| 1857 | XXII | Bombay University . | { Rep., in part, XII of 1876. Printed, Bombay Code. |
| | XXIII | <i>Volunteer Corps</i> . . . | <i>Rep. XX of 1869.</i> |
| | XXIV | <i>Port-dues</i> | <i>Rep., VIII of 1868.</i> |
| | XXV | Forfeitures for Mutiny . | { Rep., in part, V of 1869 ; IX of 1871. Printed, General Acts. |
| | XXVI | <i>Ferries, Straits Settlements</i> . | <i>Not in force in British India.</i> |
| | XXVII | Madras University . | { Rep., in part, XII of 1876. Printed, Madras Code. |
| | XXVIII | <i>Arms and Ammunition</i> . | <i>Rep., VIII of 1868.</i> |
| | XXIX | Land Customs, Bombay . | { Rep., in part, XXIII of 1859 ; XI of 1869 ; XIV of 1870 ; XIII of 1871 ; XVI of 1874 ; XII of 1876. Printed, Bombay Code. |
| | XXX | <i>Port-dues, Calcutta</i> . . | <i>Rep., XII of 1875.</i> |
| | XXXI | <i>Port-dues, Bombay Port</i> . | <i>Rep., XII of 1875.</i> |
| | XXXII | <i>Native Articles of War</i> . | <i>Rep., XXIX of 1861.</i> |
| | XXXIII | <i>Foreigners</i> | <i>Rep., VIII of 1868.</i> |
| | XXXIV | <i>Sale of Ganja, Bombay</i> . | { <i>Rep., in part, XIV of 1870.</i> <i>Rep., Bom. Act V of 1878.</i> |
| | XXXV | <i>Port-dues, Burmese Ports</i> . | <i>Rep., XII of 1875.</i> |
| 1858 | I | Compulsory Labour, Madras | { Rep., in part, XVI of 1874. Printed, Madras Code. |
| | II | <i>Cuttack Port-dues</i> . . | <i>Rep., XII of 1875.</i> |
| | III | State Prisoners . | { Rep., in part, XIV of 1870. Printed, General Acts. |
| | IV | <i>Governor General</i> . . | <i>Rep., VIII of 1868.</i> |
| | V | <i>Escaped Convicts</i> . | <i>Rep., XVII of 1860.</i> |
| | VI | <i>Impressment of Labour</i> . | <i>Rep., VIII of 1868.</i> |
| | VII | <i>Port-dues, Madras</i> . . | <i>Rep., Mad. Act VII of 1867.</i> |
| | VIII | <i>Karachi Port-dues</i> . . | <i>Rep., XII of 1875.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|---|
| 1858 | IX | <i>Cambay Gulf Port-dues</i> . | <i>Rep., Bom. Act XI of 1866.</i> |
| | X | <i>Confiscation, &c., for Rebellion</i> | <i>Rep., VIII of 1868.</i> |
| | XI | <i>Corporal Punishment</i> . . | <i>Rep., VIII of 1868.</i> |
| | XII | <i>Roads in Suburbs of Calcutta and Howrah.</i> | <i>Rep., Ben. Act V of 1876.</i> |
| | XIII | <i>Unlawful Possession of Arms</i> | <i>Rep., VIII of 1868.</i> |
| | XIV | <i>Minors, Madras</i> . . . | <i>Printed, Madras Code.</i> |
| | XV | <i>Aden Port-dues</i> . . . | <i>Rep., XII of 1875.</i> |
| | XVI | <i>Subordinate Criminal Court, Ootakamund.</i> | <i>Rep., VIII of 1868.</i> |
| | XVII | <i>Cambay Gulf Light-dues</i> . | <i>Rep., VIII of 1868.</i> |
| | XVIII | <i>Regulation of Ports, Madras</i> | <i>Rep., XII of 1875.</i> |
| | XIX | <i>Authentication of certain Stamped Paper.</i> | <i>Rep., XVIII of 1869.</i> |
| | XX | <i>Dispossessed Landed Proprietors, N.-W. Provinces.</i> | <i>Rep., VIII of 1868.</i> |
| | XXI | <i>Native Passenger Ships</i> . | <i>Rep., XII of 1870.</i> |
| | XXII | <i>Transportation</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXIII | <i>Kurnul, Madras</i> . . . | <i>Rep., XV of 1874.</i> |
| | XXIV | <i>Family of Nawáb of Carnatic</i> | <i>Rep., VIII of 1868.</i> |
| | XXV | <i>Municipal Commissioners, Bombay Town.</i> | <i>Rep., Bom. Act II of 1865.</i> |
| | XXVI | <i>State Offences</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXVII | <i>Governor General</i> . . | <i>Rep., VIII of 1868.</i> |
| | XXVIII | <i>Police, Port of Madras</i> . | <i>Rep., Mad. Act I of 1881, s. 15.</i> |
| | XXIX | <i>Suits in Civil Courts, N.-W. Provinces.</i> | <i>Rep., VIII of 1868.</i> |
| | XXX | <i>Nawáb of Carnatic</i> . . | <i>Rep., VIII of 1868.</i> |
| | XXXI | <i>Alluvial Land, Bengal</i> . | <i>Rep. (N.-W. P.), XIX of 1873; (C. P.), XVIII of 1881; (Assam), Reg. I of 1886. Printed, Bengal Code.</i> |
| | XXXII | <i>Tanjore</i> . . . | |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|--|
| 1858 | XXXIII | <i>Indian Navy</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXXIV | Lunacy, Supreme Courts | { <i>Rep., in part, XVI of 1874.</i> <i>Printed, General Acts.</i> |
| | XXXV | Lunacy, Mufassal Courts | { <i>Rep., in part, XIV of 1870;</i> <i>(Bengal), Ben. Act IX</i> <i>of 1879.</i> <i>Printed, General Acts.</i> |
| | XXXVI | Lunatic Asylums . . | { <i>Rep., in part, XVI of 1874.</i> <i>Amended, XVIII of 1886.</i> <i>Printed, General Acts.</i> |
| | XXXVII | Nawáb of Carnatic . . | { <i>Rep., in part, XVI of 1874.</i> <i>Not reprinted.</i> |
| | XXXVIII | <i>Delhi Territory</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXXIX | <i>Arrears of Land-revenue,</i> <i>Madras.</i> | <i>Rep., Mad. Act II of 1864, s. 65.</i> |
| | XL | Minors, Bengal . . | { <i>Rep., in part, XIV of 1870;</i> <i>(Bengal)—</i> <i>Ben. Act IV of 1870,</i> <i>s. 86;</i> <i>Ben. Act IX of</i> <i>1879;</i> <i>(Central Provinces)—</i> <i>XX of 1875;</i> <i>XVII of 1885.</i> <i>(Ajmere), Reg. I of</i> <i>1888.</i> <i>Amended (N.-W. P.), XIX of 1873,</i> <i>s. 258;</i> <i>(Oudh), XVIII of 1876.</i> <i>Printed, Bengal Code;</i> <i>N.-W. P. Code;</i> <i>Punjab Code;</i> <i>Oudh Code;</i> <i>Burma Code;</i> <i>Central Provinces Code;</i> <i>Ajmere Code.</i> |
| | XLI | <i>Stamp-duties, Bengal</i> . . | <i>Rep., XVIII of 1869.</i> |
| | I | Merchant Seamen . . | { <i>Rep., in part, XV of 1863;</i> <i>XIV of 1870;</i> <i>XVI of 1874;</i> <i>IV of 1875;</i> <i>XII of 1876.</i> <i>Amended, XIII of 1876, ss. 9 & 10;</i> <i>V of 1883, ss. 34 to 37.</i> <i>Printed, General Acts.</i> |
| 1859 | II | <i>Amending Act XXX of 1858.</i> | <i>Rep., VIII of 1868.</i> |
| | III | <i>Cantonment Joint Magistrates.</i> | <i>Rep., VIII of 1867.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|----------------|---|--|
| 1859 | IV | <i>Removal of Prisoners</i> . . . | <i>Rep., VIII of 1868.</i> |
| | V | Ghâtwalî Lands, Beerbhoom . | Printed, Bengal Code. |
| | VI | <i>Ahmedabad Magistracy</i> . . . | <i>Rep., XII of 1873.</i> |
| | VII | <i>Customs-duties</i> | <i>Rep., XVI of 1874.</i> |
| | VIII | <i>Civil Procedure</i> | <i>Rep., X of 1877.</i> |
| | IX | Claims to Property seized as forfeited. | <i>Rep., in part, VIII of 1868.</i> Printed, General Acts. |
| | X ^a | Recovery of Rent, Bengal | <i>Rep., in part, XXXVI of 1860;</i> VII of 1870; XIV of 1870; (locally), XX of 1865; (Bengal), Ben. Act VI of 1862; (N.-W. P.), XIV of 1863, s. 5. <i>Rep., locally (Bengal), VIII of 1885;</i> Ben. Act VIII of 1869, s. 107; Ben. Act I of 1879. <i>Rep. (N.-W. P.), XVIII of 1873;</i> (C. P.), IX of 1883. Printed, Bengal Code. |
| | XI | Sales of Land for Revenue Arrears, Bengal. | <i>Rep., in part, XIV of 1870;</i> Ben. Act VII of 1868, s. 29; Ben. Act III of 1881. and amended, Ben. Act III of 1862. Amended, Ben. Act VII of 1880; <i>Rep. (Assam), Reg. I of 1886.</i> Printed, Bengal Code. |
| | XII | Pilots, Calcutta | <i>Rep., in part, XIV of 1870;</i> X of 1873. Amended, VI of 1883. Printed, Bengal Code. |
| | XIII | Fraudulent Breaches of Contract by Workmen. | <i>Rep., in part, XVI of 1874.</i> Printed, General Acts. |
| | XIV | <i>Limitation of Suits</i> | <i>Rep. (except part of s. 15), IX of 1871.</i> <i>Residue rep., I of 1877.</i> |
| | XV | <i>Patents</i> | <i>Rep., V of 1888.</i> |

^a Act X of 1859 is apparently now only in force in the Orissa Division, Manbhoom and part of the Jalpaiguri District.

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|---|
| 1859 | XVI | <i>Nawáb of Carnatic</i> . . . | <i>Rep., XXXVII of 1860.</i> |
| | XVII | <i>Ábhári, Bombay Town</i> . . . | <i>Rep., Bom. Act V of 1878.</i> |
| | XVIII | <i>Magistrates and Justices of the Peace.</i> | <i>Rep., X of 1875.</i> |
| | XIX | <i>Continuing Act XXVIII of 1857.</i> | <i>Rep., VIII of 1868.</i> |
| | XX | Máppillas, Malabar . . . | { <i>Rep., in part, XIV of 1870 ; Mad. Act VII of 1869. Printed, Madras Code.</i> |
| | XXI | <i>Governor General</i> . . . | |
| | XXII | <i>Amending Act I of 1852</i> . . . | <i>Rep., XIII of 1871.</i> |
| | XXIII | <i>Land Customs, Madras and Bombay.</i> | <i>Rep., XVI of 1874.</i> |
| | XXIV | Police, Madras . . . | { <i>Rep., in part, XVII of 1862 ; XIV of 1870 ; XVI of 1874 ; Mad. Act I of 1885. Amended, Mad. Act V of 1865 ; I of 1872 ; III of 1888. Printed, Madras Code.</i> |
| | XXV | <i>Native Passenger Vessels</i> . . . | |
| | XXVI | <i>Continuing Act XXVIII of 1857.</i> | <i>Rep., VIII of 1868.</i> |
| | XXVII | <i>State Offences</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXVIII | <i>Foreigners</i> . . . | <i>Rep., VIII of 1868.</i> |
| 1860 | I | <i>Duty on Salt, N.-W. P.</i> . . . | <i>Rep., VIII of 1875.</i> |
| | II | <i>Carriage of Passengers by Sea</i> | <i>Rep., XII of 1885.</i> |
| | III | <i>Sessions Judges, Bengal</i> . . . | <i>Rep., XVII of 1862.</i> |
| | IV | <i>Civil Procedure</i> . . . | <i>Rep., XXIII of 1861.</i> |
| | V | <i>Cattle-trespass</i> . . . | <i>Rep., I of 1871.</i> |
| | VI | <i>Native Articles of War</i> . . . | <i>Rep., XXIX of 1861.</i> |
| | VII | <i>Joint Stock Banks</i> . . . | <i>Rep., X of 1866, s. 219.</i> |
| | VIII | <i>Electric Telegraphs</i> . . . | <i>Rep., I of 1876.</i> |
| | IX | Disputes between Workmen and Employers. | { <i>Rep., in part, IX of 1871. Printed, General Acts.</i> |
| | X | <i>Customs-duties</i> . . . | |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|--|
| 1860 | XI | <i>Indigo Contracts</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XII | <i>Emigration to St. Vincent</i> . | <i>Rep., XIII of 1864.</i> |
| | XIII | <i>Farakhabad Zila Court</i> . | <i>Rep., VIII of 1868.</i> |
| | XIV | King of Oudh . . . | Not reprinted. |
| | XV | <i>Calcutta Canals</i> . . . | <i>Rep., XII of 1873.</i> |
| | XVI | <i>Amending Act XIV of 1856</i> . | <i>Rep., XVI of 1874.</i> |
| | XVII | <i>Escaped Convicts</i> . . . | <i>Rep., V of 1871.</i> |
| | XVIII | <i>Governor General</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XIX | <i>Port-dues</i> | <i>Rep., XII of 1875.</i> |
| | XX | Sir Jamsetjee Jeejeebhoy . | Not reprinted. |
| | XXI | Registration of Societies . | { <i>Rep., in part, XVI of 1874.</i> <i>Printed, General Acts.</i> |
| | XXII | Chittagong Hill-Tracts . | { <i>Rep., in part, XVI of 1874.</i> <i>Amended, Ben. Act IV of 1863.</i> <i>Rep., XIV of 1874 (when notified).</i> <i>Printed, Bengal Code.</i> |
| | XXIII | Ábkári, Bengal . . . | { <i>Rep., in part, VI of 1863;</i> <i>XIV of 1870;</i> <i>XVI of 1874;</i> <i>Rep. (locally), X of 1871;</i> <i>(Bengal), Ben Act II of 1876.</i> <i>Printed, Assam Supplement to Ben-</i> <i>gal Code.</i> |
| | XXIV | <i>Marriages by Scotch Ministers</i> | <i>Rep., VIII of 1868.</i> |
| | XXV | <i>Port-dues, Bassein</i> . . . | <i>Rep., XII of 1875</i> |
| | XXVI | <i>Administrator General</i> . | <i>Rep., XXIV of 1867.</i> |
| | XXVII | Collection of Debts on Suc- cessions. | { <i>Rep., in part, XVI of 1874;</i> <i>V of 1881, s. 151;</i> <i>Rep. (except as to Hindus, Muham-</i> <i>madans and Buddhists, and per-</i> <i>sons exempted from Act X of</i> <i>1865), XXIV of 1867.</i> <i>Printed, General Acts.</i> |
| | XXVIII | Boundary-marks, Madras | { <i>Rep., in part, XIV of 1870.</i> <i>Amended, Mad. Act II of 1884.</i> <i>Printed, Madras Code;</i> <i>Coorg Code.</i> |
| | XXIX | <i>Continuing Act XXVIII of</i> <i>1857.</i> | <i>Rep., VIII of 1868.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|---|
| 1860 | XXX | <i>Kunch and Kálpi</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXXI | <i>Arms</i> | <i>Rep., XI of 1878.</i> |
| | XXXII | <i>Income-tax</i> | <i>Rep., VIII of 1868.</i> |
| | XXXIII | <i>Emigration to Natal</i> . . . | <i>Rep., XIII of 1864.</i> |
| | XXXIV | Indemnity for acts during Mutiny. | Printed, General Acts. |
| | XXXV | <i>Transportation of Convicts</i> . | <i>Rep., XVII of 1862.</i> |
| | XXXVI | <i>Stamps</i> | <i>Rep., X of 1862.</i> |
| | XXXVI | <i>Repealing Act XVI of 1859</i> . | <i>Rep., VIII of 1868.</i> |
| | XXXVIII | <i>Nawáb of Carnatic</i> . . . | <i>Rep., VIII of 1868.</i> |
| | XXXIX | <i>Income-tax</i> | <i>Rep., VIII of 1868.</i> |
| | XL | <i>Amending Act XXXVI of 1860.</i> | <i>Rep., X of 1862.</i> |
| | XLI | <i>Emigration to St. Kitts</i> . . | <i>Rep., XIII of 1864.</i> |
| | XLII | <i>Small Cause Courts, Mufassal</i> | <i>Rep., XI of 1865.</i> |
| | XLIII | <i>Amending Act VIII of 1859</i> . | <i>Rep., XXIII of 1861.</i> |
| | XLIV | <i>Governor General</i> | <i>Rep., VIII of 1868.</i> |
| | XLV | <i>Penal Code</i> | <div> Rep., in part, XIV of 1870 ; X of 1882. Amended, VI of 1861 ; XXVII of 1870 ; XIX of 1872 ; X of 1873, s. 15 ; (N.-W.-P.), XII of 1881 ; VIII of 1882 ; X of 1886, ss. 21-24 ; XIV of 1887, s. 79 ; I of 1889, s. 9 ; IV of 1889, s. 3. Printed, General Acts. </div> |
| | XLVI | <i>Emigration to French Colonies</i> | <i>Rep., VII of 1871.</i> |
| | XLVII | <i>University Degrees</i> | Printed, General Acts. |
| | XLVIII | <i>Amending Act XIII of 1856 (Police).</i> | <div> Rep., in part, III of 1863 ; XIV of 1870 ; XVI of 1874 ; IV of 1877 ; (Bombay), Bom. Act IX of 1867. Amended (Bombay), Bom. Act IV of 1882. </div> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1860 | XLVIII | Amending Act XIII of 1856 (Police)— <i>contd.</i> | Rep. (Calcutta), Ben. Act IV of 1866. (Madras), Mad. Act VIII of 1867, s. 81. Printed, Bombay Code. |
| | XLIX | <i>Emigration to British Colonies</i> | |
| | L | <i>Vacations in Civil Courts, Bengal.</i> | Rep., VI of 1871. |
| | LI | Amending Act XXXVI of 1860. | Rep., X of 1862. |
| | LII | Amending Act XVIII of 1854 | Rep., IV of 1877. |
| | LIII | Amending Act X of 1859 | Rep., VIII of 1868. |
| 1861 | I | Supreme Court, Bombay | Rep., VIII of 1868. |
| | II | Amending Act VI of 1857 | Rep., X of 1870. |
| | III | Customs-duty, Cochin | Rep., XIII of 1871. |
| | IV | Port-dues, Calingapatam and Munsoorcottah. | Rep., Mad. Act VII of 1867. |
| | V | Police | Rep., in part, IX of 1871; XVI of 1874; X of 1882; (locally), Ben. Act VII of 1869. Amended, III of 1888. (Assam) Reg. II of 1883. Extended to Upper Burma with modifications, XX of 1886, ss. 6 and 7. Printed, General Acts. |
| | VI | Commencement of Penal Code | Rep., VIII of 1868. |
| | VII | Salt-duty, Bombay | Rep., XXIV of 1869. |
| | VIII | Port-dues, Amherst . . . | Rep., IX of 1864. |
| | IX | Minors | Printed, General Acts. |
| | X | Repealing Enactments relating to Civil Procedure. | Rep., XIV of 1870. |
| | XI | Amending Act XIV of 1859. | Rep., VIII of 1868. |
| | XII | Amending Act XLII of 1860 | Rep., XI of 1865. |
| | XIII | Police | Rep., VIII of 1868. |
| | XIV | Rohilkhand | Rep., Reg. IV of 1876. |

| Year | Number. | Subject or short title. | Repeals, amendments and references. |
|------|---------|--|---|
| 1861 | XV | <i>Port-dues, Konkan Ports</i> . | <i>Rep., Bom. Act XI of 1866.</i> |
| | XVI | Stage Carriages . . . | { <i>Rep., in part, XIV of 1870.</i> <i>Amended, XVI of 1876.</i> <i>Printed, General Acts.</i> |
| | XVII | <i>Customs-duties, N.-W. P.</i> . | |
| | XVIII | <i>License-duty</i> . . . | <i>Rep., II of 1862.</i> |
| | XIX | <i>Paper-currency</i> . . . | <i>Rep., III of 1871.</i> |
| | XX | <i>Amending Act XXV of 1858</i> | <i>Rep., Bom. Act II of 1865.</i> |
| | XXI | <i>Income-tax</i> . . . | <i>Rep., VIII of 1868</i> |
| | XXII | <i>Cattle-trespass</i> . . . | <i>Rep., I of 1871.</i> |
| | XXIII | <i>Civil Procedure</i> . . . | <i>Rep., X of 1877.</i> |
| | XXIV | <i>Banks of Bengal, Madras and Bombay.</i> | <i>Rep., III of 1871.</i> |
| | XXV | <i>Criminal Procedure</i> . . . | <i>Rep., X of 1872</i> |
| | XXVI | <i>Occupation of Land, Malacca</i> | <i>Not in force in British India.</i> |
| | XXVII | <i>Andaman Islands</i> . . . | <i>Rep Reg IV of 1874.</i> |
| | XXVIII | <i>Merchant Seamen</i> . . . | <i>Rep., XV of 1863.</i> |
| | XXIX | <i>Native Articles of War</i> . | <i>Rep., V of 1869.</i> |
| | XXX | <i>Bengal Military Orphan Society</i> | <i>Rep., VIII of 1868.</i> |
| | XXXI | <i>Saltpetre Manufacture</i> . | <i>Rep., XII of 1876.</i> |
| | XXXII | <i>Limitation</i> | <i>Rep., VIII of 1868</i> |
| | XXXIII | <i>Amending Schedule to Act XXV of 1861.</i> | <i>Rep., VIII of 1869.</i> |
| 1862 | I | <i>Continuing Act XXXIII of 1857.</i> | <i>Rep., VIII of 1868.</i> |
| | II | <i>Repealing Act XVIII of 1861.</i> | <i>Rep., VIII of 1868.</i> |
| | III | <i>Government Seal</i> . . . | <i>Printed, General Acts.</i> |
| | IV | <i>Bank of Bengal</i> . . . | <i>Rep., XI of 1876.</i> |
| | V | <i>Payment at Presidency Banks</i> | <i>Rep., XI of 1876.</i> |
| | VI | <i>Annexing Schedule to Act IV of 1862.</i> | <i>Rep., XI of 1876.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|--|
| 1862 | VII | <i>Amending Act XLVI of 1860</i> | <i>Rep., VII of 1871.</i> |
| | VIII | King of Oudh | { <i>Rep., in part, XIII of 1868.</i> <i>Not reprinted.</i> |
| | IX | <i>Income-tax</i> | |
| | X | <i>Stamp-duties</i> | <i>Rep., VII of 1870.</i> |
| | XI | <i>Amending Act X of 1860</i> | <i>Rep., VIII of 1868.</i> |
| | XII | <i>Repealing in part Act II of 1835.</i> | <i>Rep., VIII of 1868.</i> |
| | XIII | <i>Silver and Copper Coinage</i> | <i>Rep., XXIII of 1870.</i> |
| | XIV | <i>Amending Act XIV of 1859.</i> | <i>Rep., VIII of 1868.</i> |
| | XV | <i>Amending Code of Criminal Procedure.</i> | <i>Rep., VIII of 1869.</i> |
| | XVI | <i>Income-tax</i> | <i>Rep., VIII of 1868.</i> |
| | XVII | <i>Repealing enactments relating to Criminal Law.</i> | <i>Rep., X of 1872.</i> |
| | XVIII | <i>Criminal Procedure, Supreme Courts.</i> | <i>Rep., X of 1882.</i> |
| | XIX | <i>Contraband Salt, Oudh</i> | <i>Rep., VIII of 1875.</i> |
| | XX | <i>Presidency High Courts</i> | <i>Rep., X of 1877.</i> |
| | XXI | <i>Subordinate Medical Officers' Widows' and Orphans Fund.</i> | <i>Rep., VIII of 1868.</i> |
| | XXII | <i>Emigration to Seychelles</i> | <i>Rep., XIII of 1864.</i> |
| | XXIII | <i>Customs-duties</i> | <i>Rep., XIV of 1870.</i> |
| | XXIV | <i>Continuing Act XX of 1862</i> | <i>Rep., X of 1877.</i> |
| 1863 | I | <i>Civil Courts, Burma</i> | <i>Rep., VII of 1872.</i> |
| | II | <i>Appeals to Queen in Council.</i> | <i>Rep., VI of 1874.</i> |
| | III | <i>Police, Straits Settlements</i> | <i>Not in force in British India.</i> |
| | IV | <i>Effectuating Treaty with Burma.</i> | <i>Rep., XX of 1886.</i> |
| | V | <i>Amending Act XXIX of 1861.</i> | <i>Rep., V of 1869.</i> |
| | VI | <i>Sea-customs</i> | <i>Rep., VIII of 1878.</i> |
| | VII | <i>Emigration to Saint Croix</i> | <i>Rep., XIII of 1874.</i> |

| Year | Number. | Subject or short title. | Repeals, amendments and references. |
|------|---------|--|--|
| 1863 | VIII | <i>Confinement of Prisoners sentenced by Courts.</i> | <i>Rep., V of 1871.</i> |
| | IX | <i>Amending Code of Civil Procedure.</i> | <i>Rep., X of 1877.</i> |
| | X | <i>Darjeeling</i> | <i>Rep., XIX of 1867.</i> |
| | XI | <i>Peons for Service of Process.</i> | <i>Rep., VII of 1870.</i> |
| | XII | <i>Mahoba and Jeitpur . .</i> | <i>Rep., XV of 1874.</i> |
| | XIII | <i>Imprisonment of Convicts, Bombay Town.</i> | <i>Rep., XII of 1876.</i> |
| | XIV | <i>Amending Act X of 1859 in N.-W. Provinces.</i> | <i>Rep., XII of 1876.</i> <i>Rep. (C. P.), IX of 1883.</i> |
| | XV | <i>Merchant Seamen . . .</i> | <i>Rep., IV of 1875.</i> |
| | XVI | <i>Excise on Spirits used exclusively in Manufactures.</i> | <i>Amended, XI of 1882, s. 6.</i> <i>Printed, General Acts.</i> |
| | XVII | <i>Municipal Commissioners. Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | XVIII | <i>Master in Equity: Process of High Courts.</i> | <i>Rep., X of 1877.</i> |
| | XIX | <i>Partition of Revenue-paying Estates.</i> | <i>Rep., in part, XIV of 1870.</i> <i>Rep. (N.-W. P.), XIX of 1873;</i> <i>(Oudh), XVIII of 1876;</i> <i>(Ajmere), Reg. III of 1877.</i> <i>Not reprinted.</i> |
| | XX | <i>Religious Endowments . .</i> | <i>Rep., in part, VII of 1870;</i> <i>XIV of 1870;</i> <i>XVI of 1874.</i> <i>Printed, General Acts.</i> |
| | XXI | <i>Recorders' Courts, Burma .</i> | <i>Rep., VII of 1872.</i> |
| | XXII | <i>Acquisition of Land for certain Works of Public Utility</i> | <i>Rep., X of 1870.</i> |
| | XXIII | <i>Claims to Waste-lands . .</i> | <i>Rep., in part, IX of 1871.</i> <i>Printed, General Acts.</i> |
| | XXIV | <i>Burma Courts</i> | <i>Rep., VII of 1872.</i> |
| | XXV | <i>Imprisonment of Convicts, Calcutta.</i> | <i>Rep., XII of 1867.</i> |
| | XXVI | <i>Customs-duties</i> | <i>Rep., VIII of 1868.</i> |
| | XXVII | <i>Income-tax</i> | <i>Rep., VIII of 1868.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1863 | XXVIII | <i>Stamp-duties, Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | XXIX | <i>Receipts of Presidency Banks</i> | <i>Rep., XI of 1876.</i> |
| | XXX | <i>Claims* against Native Government of Oudh.</i> | <i>Rep., VIII of 1868.</i> |
| | XXXI | Official Gazette | Printed, General Acts. |
| | XXXII | <i>Continuing Act XX of 1862 .</i> | <i>Rep., X of 1877.</i> |
| 1864 | I | <i>Purwd and Khadi</i> | <i>Rep., XV of 1874.</i> |
| | II | Aden | Printed, Bombay Code. |
| | III | Foreigners | { <i>Rep., in part, XII of 1876.</i> <i>Printed, General Acts.</i> |
| | IV | <i>Small Cause Court, Karachi .</i> | <i>Rep., VIII of 1868.</i> |
| | V | <i>Extension of Civil Procedure Code to Sindh.</i> | <i>Rep., VIII of 1868.</i> |
| | VI | Whipping | { <i>Rep., in part, X of 1872 ;</i> <i>XVI of 1874 ;</i> <i>X of 1882.</i> <i>Extended to Upper Burma, with</i> <i>modifications, XX of 1886,</i> <i>ss 6 & 7</i> <i>Printed, General Acts.</i> |
| | VII | <i>Salt, Central Provinces . .</i> | <i>Rep., VIII of 1875.</i> |
| | VIII | <i>Comptoir d'Escompte de Paris .</i> | <i>Not reprinted.</i> |
| | IX | <i>Repealing Act VIII of 1861 .</i> | <i>Rep., VIII of 1868.</i> |
| | X | <i>Abkari, Bengal</i> | <i>Rep., X of 1871.</i> |
| | XI | <i>Native Law Officers</i> | <i>Rep., VIII of 1868.</i> |
| | XII | <i>Effectuating Act V of 1863</i> <i>(Treaty with Burma).</i> | <i>Rep., XX of 1886.</i> |
| | XIII | <i>Emigration of Native Labourers.</i> | <i>Rep., VII of 1871.</i> |
| | XIV | <i>Joint Judge of the Konkan .</i> | <i>Rep., VIII of 1868.</i> |
| | XV | Tolls on Public Roads and Bidges. | Printed, General Acts. |
| | XVI | <i>Registration of Assurances .</i> | <i>Rep., XX of 1866.</i> |
| | XVII | Official Trustees | { <i>Rep., in part, XIV of 1870 ;</i> <i>XII of 1876.</i> <i>Printed, General Acts.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1864 | XVIII | <i>Municipal Committee, Lucknow.</i> | <i>Rep., XV of 1873.</i> |
| | XIX | <i>Mirzápur</i> | <i>Rep., XIV of 1874.</i> |
| | XX | <i>Minors, Bombay . .</i> | { <i>Printed, Bombay Code ; Coorg Code.</i> |
| | XXI | <i>Police Magistrates . .</i> | |
| | XXII | <i>Military Cantonments . .</i> | <i>Rep., III of 1880.</i> |
| | XXIII | <i>Customs-duties</i> | <i>Rep., VIII of 1868.</i> |
| | XXIV | <i>Non-Regulation Districts, N.-W. P.</i> | <i>Rep., XV of 1874.</i> |
| | XXV | <i>Marriage of Christians . .</i> | <i>Rep., V of 1865.</i> |
| | XXVI | <i>Small Cause Courts, Presidency-towns.</i> | <i>Rep., XV of 1882.</i> |
| | XXVII | <i>Justices of the Peace . .</i> | <i>Rep., II of 1869.</i> |
| 1865 | XXVIII | <i>Abkári</i> | <i>Rep., X of 1871.</i> |
| | I | <i>Extension of Enactments to Non-Regulation Provinces.</i> | <i>Rep., XV of 1874.</i> |
| | II | <i>Rural Police, N.-W. P. . .</i> | <i>Rep., III of 1869.</i> |
| | III | <i>Common Carriers</i> | { <i>Rep. (as to carriers by rail), IV of 1879. Printed, General Acts.</i> |
| | IV | <i>Administrator General . .</i> | |
| | V | <i>Marriage of Christians . .</i> | { <i>Rep. (except as to Straits), XV of 1872. Not in force in British India.</i> |
| | VI | <i>Continuing Arms Act . . .</i> | |
| | VII | <i>Government Forests . . .</i> | { <i>Rep., in part, IX of 1871. Rep. (locally), VII of 1878 ; XIX of 1881. Printed, General Acts.</i> |
| | VIII | <i>Validating Imprisonment of certain Persons.</i> | |
| | IX | <i>Registration of Assurances . .</i> | <i>Rep., XX of 1866.</i> |
| | X | <i>Succession</i> | { <i>Rep., in part, XXIV of 1867 ; VII of 1870 ; XV of 1877. Amended, XIII of 1875 ;</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1865 | X | Succession— <i>contd.</i> . | { Amended, II of 1877; VI of 1881. Printed, General Acts. |
| | XI | <i>Mufassal Small Cause Courts</i> | <i>Rep.</i> , IX of 1887. |
| | XII | <i>Prisoners in Calcutta</i> . . | <i>Rep.</i> , XII of 1867. |
| | XIII | <i>Criminal Procedure, High Courts.</i> | <i>Rep.</i> , X of 1875. |
| | XIV | <i>Civil Courts, Central Provinces.</i> | <i>Rep.</i> , XVI of 1885. |
| | XV | Parsi Marriages and Divorces. | { <i>Rep.</i> , in part, VII of 1870; XIV of 1870; XII of 1876. Amended, VI of 1886, s. 31. Printed, General Acts. |
| | XVI | <i>Revenue Courts, Oudh</i> . . | <i>Rep.</i> , XXXII of 1871. |
| | XVII | <i>Customs-duties</i> . . . | <i>Rep.</i> , XXV of 1865. |
| | XVIII | <i>Stamp-duties</i> . . . | <i>Rep.</i> , VII of 1870. |
| | XIX ^a | <i>Courts, Punjab</i> . . . | <i>Rep.</i> , XVII of 1877. |
| | XX | <i>Pleaders and Mukhtars</i> . | <i>Rep.</i> , XVIII of 1879. |
| | XXI | Intestate Succession, Parsis . | Printed, General Acts. |
| | XXII | <i>Amending Act XVIII of 1864.</i> | <i>Rep.</i> , XV of 1873. |
| | XXIII | <i>Punjab Chief Court</i> . . | <i>Rep.</i> , XII of 1873. |
| | XXIV | <i>Warrants of Attorney and Cognovits.</i> | <i>Rep.</i> , XVI of 1874. |
| | XXV | <i>Customs-duties</i> . . . | <i>Rep.</i> , VIII of 1868. |
| | XXVI | <i>Amending Native Articles of War.</i> | <i>Rep.</i> , V of 1869. |
| | XXVII | <i>Civil Appeals, Punjab</i> . . | <i>Rep.</i> , IV of 1866, s. 52. |
| | XXVIII | <i>Insolvent Traders, Bombay</i> . | <i>Rep.</i> , VIII of 1868. |
| | XXIX | <i>Amending Pleaders Act, 1865</i> | <i>Rep.</i> , XVIII of 1879. |
| | XXX | Madras Irrigation Company | { <i>Rep.</i> , in part, XVI of 1874. Printed, Madras Code. |
| 1866 | I | <i>Government Paper Currency.</i> | <i>Rep.</i> , III of 1871. |
| | II | <i>Rural Police, N.-W. P.</i> . | <i>Rep.</i> , III of 1869. |

^a See Act XIV of 1884, validating decisions passed under this Act.

| Year | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1866 | III | <i>Registrars, Recorders' Courts, Lu ma.</i> | <i>Rep., VII of 1872.</i> |
| | IV | <i>Chief Court, Punjab . . .</i> | <i>Rep., XVII of 1877.</i> |
| | V | <i>Bills of Exchange: Commercial Law.</i> | Rep., in part, IX of 1872 ; X of 1877 ; XII of 1879, s. 99 ; XXVI of 1881. Printed, General Acts. |
| | VI | <i>Continuing Arms Act . . .</i> | <i>Rep., XI of 1878.</i> |
| | VII | <i>Extending Act XXIII of 1840 to Straits Settlements.</i> | <i>Not in force in British India.</i> |
| | VIII | <i>Criminal Procedure . . .</i> | <i>Rep., VIII of 1869.</i> |
| | IX | <i>Extending Pleaders Act to Sadr Court, N.-W. P.</i> | <i>Rep., XVIII of 1879.</i> |
| | X | <i>Trading Companies . . .</i> | <i>Rep., VI of 1882.</i> |
| | XI | <i>Repealing Act IV of 1855 . . .</i> | <i>Rep., XIV of 1870.</i> |
| | XII | <i>Private Watercourses . . .</i> | <i>Rep., XII of 1876.</i> |
| | XIII | <i>Limitation of certain Suits, Ouh.</i> | <i>Rep., XXXII of 1871.</i> |
| | XIV | <i>Post-office</i> | Rep., in part, XIV of 1870 ; XII of 1876. Amended, III of 1882. Printed, General Acts. |
| | XV | <i>Partnership</i> | <i>Rep., IX of 1872.</i> |
| | XVI | <i>Signing Commissions under Act XIII of 1865.</i> | <i>Rep., X of 1875.</i> |
| | XVII | <i>Indian Museum, Calcutta . . .</i> | <i>Rep., XXII of 1876.</i> |
| | XXVIII | <i>Customs-duty on Saltpetre . . .</i> | <i>Rep., VIII of 1868.</i> |
| | XIX | <i>Salt, Madras</i> | <i>Rep., XXIV of 1869.</i> |
| | XX | <i>Registration of Assurances . . .</i> | <i>Rep., VIII of 1871.</i> |
| | XXI | <i>Dissolution of Native Converts' Marriages.</i> | Rep., in part, VII of 1870 ; XVI of 1874. Printed, General Acts. |
| | XXII | <i>Extending Marriage Act . . .</i> | <i>Rep., XV of 1872.</i> |
| | XXIII | <i>Correcting Bombay High Court Letters Patent.</i> | Printed, Bombay Code. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1866 | XXIV | <i>Procedure of High Court, N.-W. Provinces.</i> | <i>Rep., X of 1877.</i> |
| | XXV | Transfer of certain Securities to Government. | Rep., in part, XXIV of 1867 ; XVI of 1874 ; XII of 1876. Printed, General Acts. |
| | XXVI | Subordinate Proprietors, Oudh | |
| | XXVII | Conveyance of Property vested in Mortgagees and Trustees. | Rep., in part, XIV of 1870. Printed, Oudh Code. |
| | XXVIII | Powers of Mortgagees and Trustees. | |
| | XXIX | <i>Court of Requests, Straits Settlements.</i> | Rep., in part, XIV of 1870 ; XVI of 1874 ; (locally), IV of 1882. Printed, General Acts. |
| | XXX | <i>Excise Revenue, Straits Settlements.</i> | Rep., in part, XVI of 1874 ; VII of 1882, s. 6 ; (locally), II of 1882. Printed, General Acts. |
| 1867 | I | Ganges Tolls . . . | <i>Not in force in British India.</i> |
| | II | <i>Removal of Prisoners . . .</i> | <i>Not in force in British India.</i> |
| | III | Public Gambling . . . | <i>Not in force in British India.</i> |
| | IV | <i>Meaning of " Offence" . . .</i> | Printed, N.-W. Provinces Code. |
| | V | <i>Extending Penal Code to Straits Settlements.</i> | <i>Rep., V of 1871.</i> |
| | VI | <i>Limits of Districts, Punjab . . .</i> | Rep., in part, XVI of 1874. Amended (Lower Burma), XVI of 1884, s. 6. Printed, N.-W. P. Code ; Punjab Code ; Oudh Code ; C. P. Code ; Burma Code ; Coorg Code ; Ajmere Code ; Assam Supplement to Bengal Code. |
| | VII | <i>Purchasing Arms, &c., from Soldiers.</i> | |
| | VIII | <i>Horse-racing</i> | <i>Rep., XXVII of 1870.</i> |
| | IX | <i>Comptoir d'Escompte de Paris</i> | <i>Not in force in British India.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1867 | X | <i>References by Mufassal Small Cause Courts.</i> | <i>Rep., X of 1877.</i> |
| | XI | Oriental Gas Company . . . | Not reprinted. |
| | XII | <i>Custody of Prisoners, Presidency-towns.</i> | <i>Rep., V of 1871.</i> |
| | XIII | <i>Burma Coast-lights</i> . . . | <i>Rep., IX of 1879.</i> |
| | XIV | Pándhari-tax, Central Provinces. | { <i>Rep., in part, XVI of 1874.</i> <i>Printed, Central Provinces Code.</i> |
| | XV | <i>Municipal Committees, Punjab, Oudh, Central Provinces.</i> | { <i>Rep. (Punjab), IV of 1873;</i> <i>(Oudh), XV of 1873;</i> <i>(C. P.), XI of 1873.</i> |
| | XVI | Acting Judges . . . | Printed, General Acts. |
| | XVII | <i>Customs-duties</i> . . . | <i>Rep., XVII of 1870.</i> |
| | XVIII | Jhānsi Courts . . . | { <i>Rep., in part, XIV of 1870;</i> <i>XVI of 1874.</i> <i>Amended, XXVII of 1867.</i> <i>Printed, N.-W. Provinces Code.</i> |
| | XIX | Darjeeling . . . | { <i>Rep., in part, XVI of 1874.</i> <i>Printed, Bengal Code.</i> |
| | XX | <i>Transhipment of certain Goods</i> | <i>Rep., VI of 1873.</i> |
| | XXI | <i>Licensing Professions and Trades.</i> | <i>Rep., IX of 1868.</i> |
| | XXII | Sarāis and Purāos . . . | Printed, General Acts. |
| | XXIII | Murderous Outrages, Punjab. | { <i>Rep., in part, XVI of 1874.</i> <i>Revived and amended, IX of 1877.</i> <i>Printed, Punjab Code.</i> |
| | XXIV | <i>Administrator General.</i> . . . | <i>Rep., II of 1874.</i> |
| | XXV | Printing Presses and Books | { <i>Rep., in part, XIV of 1870.</i> <i>Printed, General Acts.</i> |
| | XXVI | <i>Stamp-duties</i> . . . | <i>Rep., X of 1877.</i> |
| | XXVII | Deputy Commissioners . . . | { <i>Rep. (Punjab), XVII of 1877;</i> <i>(Oudh), XXXII of 1871;</i> <i>(C. P.), XVI of 1885.</i> <i>Printed, N.-W. Provinces Code.</i> |
| | XXVIII | <i>Petty Sessions Courts, N.-W. Provinces.</i> | <i>Rep., X of 1872.</i> |
| | XXIX | <i>Amending Act XXI of 1867</i> | <i>Rep., IX of 1868.</i> |

| Year | Number. | Subject or short title. | Repeals, amendments and references. |
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| 1867 | XXX | <i>Paper Currency . . .</i> | <i>Rep., III of 1871.</i> |
| | XXXI | <i>Certain Offences of Railway Servants.</i> | <i>Rep., IV of 1879.</i> |
| | XXXII | Chief Commissioners' Powers | { Printed, Oudh Code ; Central Provinces Code ; Burma Code. |
| | XXXIII | <i>Amending Act XXXI of 1861</i> | |
| | XXXIV | <i>Local Repeal of Act XIX of 1866.</i> | <i>Rep., XIV of 1870.</i> |
| | XXXV | <i>Financial Commissioner, Punjab.</i> | <i>Rep., XIV of 1870.</i> |
| | XXXVI | <i>Correcting Act XVII of 1862</i> | <i>Rep., X of 1872.</i> |
| | XXXVII | <i>Appeals, Oudh . . .</i> | <i>Rep., XI of 1871.</i> |
| 1868 | I | General Clauses . . . | { Rep., in part, I of 1872. Amended, I of 1887, ss. 9 and 10. Printed, General Acts. |
| | II | <i>Paper exported from Cochin .</i> | |
| | III | <i>Powers of Assistant Commissioner, Punjab.</i> | <i>Rep., XVII of 1877.</i> |
| | IV | Exempting certain Bombay Villages from General Regulations. | { Rep. (except in Scheduled Districts), XIV of 1874. Printed, Bombay Code. |
| | V | Commissioner in Sindh . . . | |
| | VI | <i>Municipalities, N.-W. P. .</i> | <i>Rep., XV of 1873.</i> |
| | VII | <i>Appeals and Reviews, Punjab</i> | <i>Rep., IX of 1873.</i> |
| | VIII | <i>Repealing Obsolete Enactments</i> | <i>Rep., XIV of 1870.</i> |
| | IX | <i>Taxing Professions and Trades</i> | <i>Rep., IX of 1869.</i> |
| | X | <i>Amending Consolidated Customs Act.</i> | <i>Rep., VIII of 1878.</i> |
| | XI | <i>Exempting Timber from Import-duty.</i> | <i>Rep., XIV of 1870.</i> |
| | XII | <i>Power to suspend Act XI of 1841, s. 17.</i> | <i>Rep., VIII of 1887.</i> |
| | XIII | King of Oudh . . . | { Rep., in part, XIV of 1870. Not reprinted. |
| | XIV | <i>Contagious Diseases . .</i> | |
| | XV | <i>Stamps, High Courts . .</i> | <i>Rep., VII of 1870.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|---|
| 1868 | XVI | <i>P. S. Amins, &c., Bengal</i> | <i>Rep., VI of 1871.</i> |
| | XVII | <i>Failure of Bank of Bombay</i> | <i>Rep., XIV of 1870.</i> |
| | XVIII | Small Cause Jurisdiction, Nilgiris. | { <i>Rep., in part, XIV of 1870; XVI of 1874.</i> <i>Printed, Madras Code.</i> |
| | XIX | <i>Rent, Oudh</i> | <i>Rep., XXII of 1886.</i> |
| | XX | <i>Duties in Lucknow</i> | <i>Rep., XIV of 1870.</i> |
| | XXI | Nawáb of the Carnatic | Not reprinted. |
| | XXII | <i>Mauza Kheria</i> | <i>Rep., XV of 1874.</i> |
| | XXIII | <i>Abkári, British Burma</i> | <i>Rep., X of 1871.</i> |
| | XXIV | Inoculation, Kumaon and Garhwal. | <i>Printed, N.-W. Provinces Code.</i> |
| | XXV | <i>Coorg Courts</i> | <i>Rep., Reg. II of 1881.</i> |
| | XXVI | <i>Municipal Lock-hospitals</i> | <i>Rep., IX of 1888.</i> |
| | XXVII | <i>Registration</i> | <i>Rep., VIII of 1871.</i> |
| | XXVIII | <i>Tenancy, Punjab</i> | <i>Rep., XVI of 1887.</i> |
| 1869 | I | Taluqdars, Oudh | { <i>Amended, X of 1885.</i> <i>Printed, Oudh Code.</i> |
| | II | <i>Justices of the Peace</i> | <i>Rep., X of 1882.</i> |
| | III | <i>Rural Police, N.-W. Provinces</i> | <i>Rep., XVI of 1873.</i> |
| | IV | Divorce | { <i>Rep., in part, VII of 1870; XII of 1873; (Punjab), XVIII of 1884.</i> <i>Printed, General Acts.</i> |
| | V | Indian Articles of War | { <i>Rep., in part, XIV of 1870.</i> <i>Printed, General Acts.</i> |
| | VI | <i>Emigration</i> | <i>Rep., VII of 1871.</i> |
| | VII | <i>Forests, British Burma</i> | <i>Rep., XIX of 1881.</i> |
| | VIII | <i>Criminal Procedure</i> | <i>Rep., X of 1872.</i> |
| | IX | <i>Income-tax</i> | <i>Rep., XVI of 1870.</i> |
| | X | <i>Police Superannuation Funds</i> | <i>Rep., XII of 1873</i> |
| | XI | <i>Land Customs, Madras and Bombay.</i> | <i>Rep., XI of 1882.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|--|
| 1869 | XII | <i>Customs-duties</i> . . . | <i>Rep., XVII of 1870.</i> |
| | XIII | Procedure of High Court, { N.-W. Provinces. | Rep., in part, X of 1875. Printed, N.-W. Provinces Code. |
| | XIV | Civil Courts, Bombay . . { | Rep., in part, XIV of 1870 ; XII of 1876. Amended, X of 1876 ; IX of 1880 ; XV of 1880. Printed, Bombay Code. |
| | XV | Prisoners' Testimony . . { | Rep., in part, XVI of 1874 ; X of 1877. Amended, XVII of 1875, s. 93. Printed, General Acts. |
| | XVI | Bhootan Dvārs . . . { | Rep., in part, XVI of 1874. Printed, Bengal Code. |
| | XVII | <i>Landing Cargo</i> . . . | <i>Rep., VIII of 1878.</i> |
| | XVIII | <i>Stamp-duties</i> . . . | <i>Rep., I of 1879.</i> |
| | XIX | <i>Administrator General</i> . | <i>Rep., II of 1874.</i> |
| | XX | Volunteers . . . { | Rep., in part, XIV of 1870 ; IX of 1871 ; XVI of 1874. Printed, General Acts. |
| | XXI | <i>European Vagrancy</i> . . | <i>Rep., IX of 1874.</i> |
| | XXII | <i>Gáro Hills</i> . . . | <i>Rep., XIV of 1874.</i> |
| | XXIII | <i>Income-tax</i> . . . | <i>Rep., XVI of 1870.</i> |
| | XXIV | <i>Salt, Madras and Bombay</i> . | <i>Rep., XVIII of 1877.</i> |
| | XXV | <i>Salt, N.-W. P., Punjab, &c.</i> | <i>Rep., VIII of 1875.</i> |
| | XXVI | <i>Correcting Act VIII of 1863.</i> | <i>Rep., V of 1871.</i> |
| 1870 | I | Quarantine Rules . . . | Printed, General Acts. |
| | II | <i>Subordinate Judges and</i> <i>Munsifs, Bengal.</i> | <i>Rep., VI of 1871.</i> |
| | III | <i>Agror Valley</i> . . . { | <i>Rep (Hazára Dist.), Reg. I of</i> <i>1872, s. 13.</i> <i>Rep., IV of 1872.</i> |
| | IV | <i>Appeals to Assistant Commis-</i> <i>sioner, Kulu.</i> | <i>Rep., V of 1874.</i> |
| | V | Costs of certain Petitions { | Rep., in part, II of 1874 ; XVI of 1874. Printed, General Acts. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|---|
| 1870 | VI | <i>Fees for Registration of Emigrants.</i> | <i>Rep., VII of 1871.</i> |
| | VII | Court-fees . . . | Rep., in part, XIV of 1870; XVI of 1870; VIII of 1871; (Punjab), XVII of 1887. Amended, XX of 1870; XV of 1872; XIII of 1875; V of 1881, s. 153; (Punjab), XVIII of 1884, s. 71. Printed, General Acts. |
| | VIII | Murder of Female Infants . | Printed, General Acts. |
| | IX | <i>Elphinstone Land Company</i> . | <i>Rep., XII of 1873.</i> |
| | X | Acquisition of Land for Public Purposes. | Rep., in part, IX of 1871; XII of 1876; (Oudh), XIII of 1879. Amended (Punjab), XVIII of 1884, s. 74; XVIII of 1885. Printed, General Acts. |
| | XI | <i>Weights and Measures</i> . . | <i>Rep., XII of 1873.</i> |
| | XII | <i>Native Passenger Ships</i> . . | <i>Rep., VIII of 1876.</i> |
| | XIII | <i>State Railways</i> . . . | <i>Rep., IV of 1879.</i> |
| | XIV | <i>Repealing Obsolete Enactments.</i> | <i>Rep., XII of 1873.</i> |
| | XV | <i>Paper-currency</i> . . . | <i>Rep., III of 1871.</i> |
| | XVI | <i>Income-tax</i> . . . | <i>Rep., XII of 1871.</i> |
| | XVII | <i>Customs-duties</i> . . . | <i>Rep., XIII of 1871.</i> |
| | XVIII | <i>Power to exempt from Customs-duties.</i> | <i>Rep., XVI of 1875.</i> |
| | XIX | <i>Bank of Bengal</i> . . . | <i>Rep., XI of 1876.</i> |
| | XX | Amending Court-fees Act, VII of 1870. | Printed, General Acts. |
| | XXI | Wills of Hindus, &c. . | Rep., in part, and amended, V of 1881, s. 154. Printed, General Acts. |
| | XXII | <i>European British Subjects</i> . | <i>Rep., X of 1882.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|--|
| 1870 | XXIII | Coinage and the Mint | Rep., in part, XII of 1873 ; XII of 1876. Printed, General Acts. |
| | XXIV | Relief of Oudh Taluqdárs | Printed, Oudh Code. |
| | XXV | Timber-duty, Maulmain | Rep., XII of 1873. |
| | XXVI | Prisons | Rep., in part, XII of 1873 ; XVI of 1874. Amended, XIV of 1878. Extended to Coorg, with modifica- tions, II of 1871. Extended to Assam, Reg. II of 1875. |
| | | | Printed, N.-W. Provinces Code ; Punjab Code ; Oudh Code ; Central Provinces Code ; Burma Code ; Coorg Code ; Ajmere Code. Assam Supplement to Ben- gal Code. |
| | XXVII | Amending Penal Code | Rep., in part, X of 1872. Amended, VIII of 1882 ; X of 1886, ss. 21 (1) & 24 (1). Printed, General Acts. |
| | XXVIII | Commitments from Andamans | Rep., Reg. III of 1876. |
| 1871 | I | Cattle-trespass | Rep., in part, XVI of 1874. Amended, XVIII of 1883. Printed, General Acts. |
| | II | Extending Prisons Act, XXVI of 1870, to Coorg. | Rep., in part, XVI of 1874. Printed, Coorg Code. |
| | III | Paper Currency | Rep., XX of 1882. |
| | IV | Coroners | Rep., in part, IX of 1871 ; X of 1873 ; XII of 1873 ; XVI of 1874. |
| | | | Rep., in part, and amended, X of 1881 and V of 1889. Printed, General Acts. |
| | V | Prisoners | Rep., in part, XII of 1873 ; XVI of 1874. Amended, IX of 1882 ; X of 1886, s. 25. Printed, General Acts. |
| | VI | Civil Courts, Bengal | Rep., XII of 1887. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|--|
| 1871 | VII | <i>Emigration</i> | <i>Rep., XXI of 1883.</i> |
| | VIII | <i>Registration of Documents .</i> | <i>Rep., III of 1877.</i> |
| | IX | <i>Limitation</i> | <i>Rep., XV of 1877.</i> |
| | X | <i>Excise; Northern India, Burma, Coorg.</i> | <i>Rep., XXII of 1881.</i> |
| | XI | <i>Financial Commissioner, Oudh</i> | <i>Rep., XXXII of 1871.</i> |
| | XII | <i>Income-tax</i> | <i>Rep., XVI of 1874.</i> |
| | XIII | <i>Customs-duties</i> | <i>Rep., XVI of 1875.</i> |
| | XIV | <i>Amending Consolidated Customs Act.</i> | <i>Rep., VIII of 1878.</i> |
| | XV | <i>Relief of Broach Thákurs .</i> | <i>Rep., XIV of 1877.</i> |
| | XVI | <i>Survey of Steamers, Burma .</i> | <i>Rep., VI of 1884.</i> |
| | XVII | <i>Rates on Land, Oudh . .</i> | <i>Rep., IV of 1878.</i> |
| | XVIII | <i>Rates on Land, N.-W. Provinces.</i> | <i>Rep., III of 1878.</i> |
| | XIX | Sessions Judges, Bengal and N.-W. Provinces. { | Rep., in part, X of 1872. Printed, Bengal Code; N.-W. Provinces Code. |
| | XX | <i>Rates on Land, Punjab .</i> | <i>Rep., V of 1878.</i> |
| | XXI | Dehra Dún { | Rep., in part, XVI of 1874. Printed, N.-W. Provinces Code. |
| | XXII | Chaukidárs, N.-W. Provinces { | Rep., in part, and amended (Oudh), XVIII of 1876. Printed, N.-W. Provinces Code; Punjab Code; Oudh Code. |
| | XXIII | Pensions { | Amended (locally), Act XXI of 1886. Printed, General Acts. |
| | XXIV | <i>Local Public Works Loans .</i> | <i>Rep., XI of 1879.</i> |
| | XXV | <i>Amending Railway Act .</i> | <i>Rep., IV of 1879.</i> |
| | XXVI | Advances for Agricultural Improvements. { | Rep., in part, XII of 1873; XVI of 1874. Amended, XXI of 1876. Rep., in places in which Act XIX of 1883 has been declared in force. Not reprinted. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|-------------------------------|---|
| 1871 | XXVII | Criminal Tribes and Eunuchs | Rep., in part, XVI of 1874; XII of 1876. Amended and extended to Bengal, VII of 1876. Printed, Bengal Code; N.-W. Provinces Code; Punjab Code; Oudh Code; Ajmere Code. |
| | XXVIII | European Vagrants . . . | Rep., IX of 1874. |
| | XXIX | Repealing Bengal Regulations | Rep., XII of 1873. |
| | XXX | Canals and Drainage, Punjab | Rep., VIII of 1873. |
| | XXXI | Weights and Measures . . . | Printed, General Acts. |
| | XXXII | Civil Courts, Oudh . . . | { Rep. (except s. 40), XIII of 1879. S. 40, rep., XXII of 1886. |
| | XXXIII | Land-revenue, Punjab . . . | Rep., XVII of 1887. |
| 1872 | I | Evidence | { Rep., in part, 44 & 45 Vict., cap. 58, s. 127. Amended, XVIII of 1872; III of 1887. Extended to Upper Burma, with modifications, XX of 1886, ss. 5 and 7. Printed, General Acts. |
| | II | Reviving Act XV of 1867 . . . | Rep., IV of 1873. |
| | III | Marriage | { Rep., in part, XVI of 1874; XII of 1876. Amended, VI of 1886, s. 29. Printed, General Acts. |
| | IV | Laws, Punjab | { Rep., in part, I of 1878; VI of 1878; X of 1879; (when extended to Pun- jab), IV of 1882; X of 1882; XVII of 1887. Rep., in part, and amended, XII of 1878. Amended, XV of 1875; XXIV of 1881. Printed, Punjab Code. |
| | V | Sindh | Printed, Bombay Code. |
| | VI | Oaths and Affirmations . . . | Rep., X of 1873. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|--|
| 1872 | VII | <i>Courts, British Burma</i> . | <i>Rep., XVII of 1875.</i> |
| | VIII | <i>Income-tax</i> | <i>Rep., XVI of 1874.</i> |
| | IX | <i>Contract Law</i> . . . | Rep., in part (except as to Scheduled Districts), I of 1877. Amended, IV of 1886. Printed, General Acts. |
| | X | <i>Criminal Procedure</i> . . | <i>Rep., X of 1882.</i> |
| | XI | <i>Extradition</i> | <i>Rep., XXI of 1879.</i> |
| | XII | <i>Native Passenger Ships</i> . | <i>Rep., VIII of 1876.</i> |
| | XIII | <i>Patterns and Designs</i> . | <i>Rep., in part, XVI of 1874.</i> <i>Residue rep., V of 1888.</i> |
| | XIV | <i>Exempting Straits Settlements from Emigration Act</i> } | <i>Rep., V of 1872, s. 52.</i> <i>XXI of 1883.</i> |
| | XV | <i>Marriage of Christians</i> . | Rep., in part, XVI of 1874. Amended, VI of 1886, s. 30. Printed, General Acts. |
| | XVI* | <i>Spirit-duty, Burma</i> . . | Printed, Burma Code. |
| | XVII | <i>Postponing Commencement of Code of Criminal Procedure.</i> | <i>Rep., XII of 1873.</i> |
| | XVIII | <i>Amending Evidence Act</i> } | Rep., in part, X of 1873 ; XVI of 1874 ; XII of 1876. Printed, General Acts. |
| | XIX | <i>Definition of "Coin," Penal Code.</i> | Printed, General Acts. |
| | XX | <i>Amending Act V of 1872</i> . | Printed, Bombay Code. |
| | XXI | <i>Lunatic Sepoys</i> | <i>Rep., XI of 1877.</i> |
| | XXII | <i>Amending Act X of 1859 in N.-W. Provinces and Central Provinces.</i> } | Rep. (N.-W. P., except as to certain Scheduled Districts), XVIII of 1873 ; (C. P., except as to Scheduled Districts), IX of 1883. Not reprinted. |
| | XXIII | <i>Re-importation of certain goods cleared at Rangoon.</i> | <i>Rep., XX of 1886.</i> |
| | XXIV | <i>Repealing Bombay Reg. XIII, 1827, s. 34, cl. 9.</i> | <i>Rep., XII of 1873.</i> |
| | XXV | <i>Salt, Punjab</i> | <i>Rep., VIII of 1875.</i> |
| | XXVI | <i>Opium, Punjab</i> | <i>Rep., I of 1878.</i> |

* This Act will be repealed by the new Lower Burma Courts Bill now before the Council of the Governor General.

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|--|
| 1872 | XXVII | <i>Criminal Procedure Code, Sindh.</i> | <i>Rep., XVI of 1874.</i> |
| 1873 | I | <i>Burma Courts . . .</i> | <i>Rep., XVII of 1875.</i> |
| | II | <i>Burma Ferries . . .</i> | <i>Rep., in part, XVI of 1874.</i> <i>Printed, Burma Code.</i> |
| | III | <i>Civil Courts, Madras . .</i> | <i>Rep., in part, XII of 1873;</i> <i>IX of 1887.</i> <i>Amended, XIX of 1877;</i> <i>XXI of 1885.</i> <i>Rep., in part (when and where rules</i> <i>under s. 3 of Act VII of 1887</i> <i>take effect), VII of 1887, s. 6.</i> <i>Printed, Madras Code.</i> |
| | IV | <i>Municipalities, Punjab .</i> | <i>Rep., XIII of 1884, s. 12.</i> |
| | V | <i>Savings Banks . . .</i> | <i>Rep., in part, XII of 1873;</i> <i>XVI of 1874.</i> <i>Printed, General Acts.</i> |
| | VI | <i>Transshipment of Goods .</i> | <i>Rep., VIII of 1878.</i> |
| | VII | <i>Port-dues, Burma . . .</i> | <i>Rep., XII of 1875.</i> |
| | VIII | <i>Canals and Drainage, North- ern India.</i> | <i>Rep., in part, XII of 1873;</i> <i>XVI of 1874;</i> <i>Rep., in part (Punjab), XVI of 1887.</i> <i>Printed, N.-W. Provinces Code;</i> <i>Punjab Code;</i> <i>Oudh Code;</i> <i>C. Provinces Code.</i> |
| | IX | <i>Appeals, Punjab . . .</i> | <i>Rep., XVII of 1877.</i> |
| | X | <i>Judicial Oaths . . .</i> | <i>Rep., in part, XII of 1873;</i> <i>XII of 1876.</i> <i>Printed, General Acts.</i> |
| | XI | <i>Municipalities, Central Prov- inces.</i> | <i>Rep., in part, XVI of 1874.</i> <i>Printed, C. Provinces Code.</i> |
| | XII | <i>Obsolete Enactments Repeal .</i> | <i>Rep., XVI of 1874.</i> |
| | XIII | <i>Timber, Lower Burma . .</i> | <i>Rep., XIX of 1881.</i> |
| | XIV | <i>Lunatic Soldiers' Property .</i> | <i>Rep., in part, XVI of 1874.</i> <i>Printed, General Acts.</i> |
| | XV | <i>Municipalities, N.-W. Prov- inces and Oudh.</i> | <i>Rep., in part, XVI of 1874;</i> <i>(locally), XV of 1883, ss 5 and</i> <i>17 (1).</i> <i>Printed, N.-W. Provinces Code ;</i> <i>Ajmere Code ;</i> <i>Coorg Code.</i> |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|---|
| 1873 | XVI | Village and Road Police, N.-W. Provinces. | Rep., in part, XVI of 1874; XII of 1876. Printed, N.-W. Provinces Code. |
| | XVII | Nawáb Názim's Debts . . . | Not reprinted. |
| | XVIII | Rent, N.-W. Provinces . . . | Rep., XII of 1881. |
| | XIX | Land-revenue, N.-W. Provinces. | Rep., in part, I of 1879; XIII of 1882. Amended, VIII of 1879; XV of 1886. Printed, N.-W. Provinces Code. |
| | XX | Prince of Arcot . . . | Not reprinted. |
| 1874 | I | Quieting titles, N.-W. Provinces. | Spent. |
| | II | Administrator General . . . | Rep., in part, I of 1879; and amended, IX of 1881. Printed, General Acts. |
| | III | Married Women's Property | Rep., in part, XII of 1876; VI of 1888, s. 9. Printed, General Acts. |
| | IV | Foreign Recruiting . . . | Rep., in part, XII of 1876. Printed, General Acts. |
| | V | Appeals to Assistant Commissioner, Kulu. | Rep., XVII of 1877. |
| | VI | Appeals to Judicial Committee | Rep., X of 1877. |
| | VII | Municipalities, Lower Burma. | Rep. (locally), XVII of 1884, s. 14. Printed, Burma Code. |
| | VIII | Exercise of powers in Assam . | Printed, Assam Supplement to Bengal Code. |
| | IX | European Vagrancy . . . | Rep., in part, I of 1879. Printed, General Acts. |
| | X | Salt : Ganjam, Orissa . . . | Rep., XVIII of 1877. |
| | XI | Amending Code of Criminal Procedure. | Rep., X of 1882. |
| | XII | Exercise of powers in Sylhet . | Printed, Assam Supplement to Bengal Code. |
| | XIII | European British Minors | Printed, Punjab Code; Oudh Code; C. Provinces Code; Burma Code; |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|--|
| 1874 | XIII | European British Minors— <i>contd.</i> | Printed, Coorg Code; Ajmere Code; Assam Supplement to Ben- gal Code. Rep., in part, XIX of 1879; XIV of 1881, s. 14; XXV of 1881; VIII of 1883; VII of 1885. Amended, XVII of 1886. Printed, General Acts. Rep., in part, VIII of 1875; XII of 1876; XVIII of 1877; VI of 1878; XI of 1878; XXVI of 1881; X of 1882; VII of 1885; VIII of 1887; IX of 1887; and amended, XIV of 1881, ss. 14 and 15. Printed, General Acts. |
| | XIV | Scheduled Districts . | |
| | XV | Local Extent of certain En- actments. | |
| | XVI | <i>Obsolete Enactments Repeal</i> . | |
| | I | <i>Distresses, Presidency-towns</i> . | |
| 1875 | II | <i>Law Reports</i> | Rep., <i>XVIII</i> of 1875. |
| | III | <i>Correcting Act XVI of 1874</i> . | Rep., <i>XII</i> of 1876. |
| | IV | <i>Merchant Shipping</i> . . | Rep., <i>V</i> of 1883. |
| | V | Unattested Sepoys . . | Printed, General Acts. |
| | VI | Loan to Sir Jamsetjee Jeejee- bhoy. | Not reprinted. |
| | VII | Fisheries, Burma . . . | Rep., in part, <i>XII</i> of 1876. Printed, Burma Code. |
| | VIII | <i>Inland Customs</i> . . . | Rep., <i>XII</i> of 1882. |
| | IX | Majority | Printed, General Acts. |
| | X | Criminal Procedure, High Courts. | Rep. (except s. 144 and part of s. 146), X of 1882. Ss. 144 and 146 printed, General Acts. |
| | XI | <i>Salt, Madras</i> | Rep., <i>XVIII</i> of 1877. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|-------------------|--|---|
| 1875 | XII | Ports and Port-dues . | Rep., in part, VII of 1880, s. 72 ; (in areas to which Act extends), VIII of 1881 ; IV of 1884. Amended, IX of 1879, s. 17 ; XVII of 1882 ; V of 1883, s. 31 ; XI of 1883 ; V of 1885 ; Rep., in part, and amended (Port of Madras, when notified), IV of 1881. Printed, General Acts. |
| | XIII | Probates and Letters of Administration. | Amended, II of 1877. Printed, General Acts. |
| | XIV | <i>Punjab Judicial Administration.</i> | Rep., XVI of 1887. |
| | XV | Amending Punjab Laws Act . | Printed, Punjab Code. |
| | XVI | <i>Tariff</i> | Rep., XI of 1882. |
| | XVII ^a | Courts, Burma . . | Rep., in part, VI of 1878. Amended, XI of 1880 ; X of 1884 ; XIV of 1885. Printed, Burma Code. |
| | XVIII | Law Reports . . | Rep., in part, XII of 1876. Printed, General Acts. |
| | XIX | <i>Punjab Chief Court</i> . . | Rep., XVII of 1877. |
| | XX | Central Provinces Laws . | Rep., in part, VI of 1878 ; III of 1879 ; IV of 1882 ; X of 1882. Amended, II of 1879. Printed, C. Provinces Code. |
| | XXI | <i>Calcutta University Honorary Degrees.</i> | Rep., I of 1884. |
| 1876 | I | <i>Telegraphs</i> | Rep., XIII of 1885. |
| | II | Burma Land and Revenue . | Rep., in part, II of 1880 ; XII of 1882. Printed, Burma Code. |
| | III | <i>Burma Labour Law</i> . . | Rep., VII of 1883. |
| | IV | <i>Bengal Revenue Agents</i> . | Rep., XVIII of 1879. |
| | V | Reformatory Schools . . | Printed, General Acts. |

^a This Act will be repealed by the new Lower Burma Courts Bill now before the Council of the Governor General.

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|---|
| 1876 | VI | Chutia Nágpur Encumbered Estates. | { Amended, V of 1884. Applied to the Deo Estate, with modifications, IX of 1886. Printed, Bengal Code. |
| | VII | Extending and amending Act XXVII of 1871 (Criminal Tribes Act). | { Printed, Bengal Code; N.-W. Provinces Code; Punjab Code; Oudh Code. |
| | VIII | <i>Native Passenger Ships</i> . . . | . Rep., X of 1887. |
| | IX | Native Coinage . . . | . Printed, General Acts. |
| | X | Bombay Revenue Jurisdiction. | { Rep. in part and amended, XV of 1880. Amended, XVI of 1877. Printed, Bombay Code. |
| | XI | Presidency Banks . . . | { Rep., in part, and amended, V of 1879. Printed, General Acts. |
| | XII | <i>Obsolete Enactments</i> . . . | . Spent. |
| | XIII | Merchant Seamen . . . | . Printed, General Acts. |
| | XIV | <i>Incumbered Estates, Sindh</i> . . . | . Rep., XX of 1881. |
| | XV | Municipal Debentures, Bombay. | { Rep., in part, I of 1879. Printed, Bombay Code. |
| | XVI | Amending Stage Carriages Act, XVI of 1861. | . Printed, General Acts. |
| | XVII | Land-revenue, Oudh . . . | { Rep., in part, XIII of 1882; and amended, XIV of 1878. Printed, Oudh Code. |
| | XVIII | Laws, Oudh . . . | { Rep., in part, VI of 1878; III of 1879, s. 9; XIII of 1879; IV of 1882; X of 1882; XXII of 1886; and amended, XIV of 1878, s. 5. Printed, Oudh Code. |
| | XIX | Dramatic Performances . . . | { Extended to Upper Burma, with modifications, XX of 1886, ss. 6 and 7. Printed, General Acts. |
| | XX | Bhaunagar . . . | . Printed, Bombay Code. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|--|
| 1876 | XXI | Amending Land Improvement Act. | Rep. (in places in which the Act has been declared in force), XIX of 1883. Not reprinted. |
| | XXII | Indian Museum (Calcutta) | Amended, IV of 1887. Printed, Bengal Code. |
| | XXIII | Opium | Rep. (in local areas in which the Act has been declared in force), I of 1878. Amended, VI of 1877. Not reprinted. |
| 1877 | I | Specific Relief . . . | Rep., in part (in certain localities)— II of 1882; IV of 1882. Printed, General Acts. |
| | II | Amending Act XIII of 1875 (Probate and Letters of Administration). | Printed, General Acts. |
| | III | Registration | Rep., in part (by implication), X of 1882, s. 483. Amended, XII of 1879, ss. 104 to 107; I of 1880; XIX of 1883, s. 12 (1) & (3); VII of 1886; VII of 1883, s. 65. Supplemented, IV of 1882 (as amended by Act III of 1885). Printed, General Acts. |
| | IV | Presidency Magistrates . . | Rep. (except s. 57), X of 1882. S. 57: printed, General Acts. |
| | V | <i>Straits Settlements Emigration.</i> | Rep., XXI of 1884. |
| | VI | Postponing operation of Opium Act, XXIII of 1876. | Rep. (locally), I of 1878. Not reprinted. |
| | VII | <i>Amending North-Western Provinces Local Rates Act, 1871.</i> | Rep., III of 1878. |
| | VIII | <i>Licences, North-Western Provinces.</i> | Rep., II of 1878. |
| | IX | Reviving and amending Act XXIII of 1867 (Murderous Outrages, Punjab). | Printed, Punjab Code. |
| | X | <i>Civil Procedure Code . . .</i> | Rep., XIV of 1882. |
| | XI | Military Lunatics . . . | Printed, General Acts. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|--|
| 1877 | XII | <i>Amending Act VI of 1876 (Chutia Nágpur Encumbered Estates).</i> | <i>Rep., V of 1884.</i> |
| | XIII | Embankments, Burma . . . | Printed, Burma Code. |
| | XIV | Incumbered Estates, Broach and Kaira. | Rep., in part, and amended, XXI of 1881. Printed, Bombay Code. |
| | XV | Limitation | Rep., in part (Madras, Central Provinces and Coorg), V of 1882. Amended, XII of 1879, s. 108; VIII of 1880; V of 1881, s. 156; IX of 1887, s. 36; VII of 1888, s. 66. Amended (Punjab), XVII of 1877, s. 18. Amended (Upper Burma), Reg. X of 1857, s. 4. Printed, General Acts. |
| | XVI | Amending Act X of 1876 (Bombay Revenue Jurisdiction). | Printed, Bombay Code. |
| | XVII* | Courts, Punjab | Rep. (except s. 18), XVIII of 1884. S. 18 printed, Punjab Code. |
| | XVIII | Salt | <i>Rep., XII of 1882.</i> |
| | XIX | Amending Madras Courts Act, III of 1873 (Ministerial Officers). | Amended, XXI of 1885. Rep. (Bengal, N.-W. P. and Assam), XII of 1887. Printed, Madras Code. |
| 1878 | I | Opium | Printed, General Acts. |
| | II | <i>License-tax, Northern India .</i> | <i>Rep., II of 1886.</i> |
| | III | Local Rates, North-Western Provinces. | Rep., in part, and amended, XIV of 1883, ss. 56 to 58. Amended, VIII of 1879. Printed, N.-W. Provinces Code. |
| | IV | Local Rates, Oudh | Rep. in part and amended, XIV of 1883, ss. 59 to 61. Printed, Oudh Code. |
| | V | Local Rates, Punjab | Rep. (in all districts, except Simla), XX of 1883. Not reprinted. |
| | VI | Treasure-trove | Printed, General Acts. |
| | VII | Forests | Rep., in part (locally), VI of 1879. Printed, General Acts. |

* See Act XIV of 1884, validating decisions passed under this Act.

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|---|
| 1878 | VIII | Sea Customs | Amended, IX of 1885, ss. 5 and 6 ; II of 1887, ss. 1 to 4 ; XXI of 1887 ; II of 1888 ; IV of 1889, ss. 10 and 11. Printed, General Acts. |
| | IX | <i>Native Press</i> | <i>Rep., III of 1882.</i> |
| | X | Local Rates, Central Provinces | Printed, C. Provinces Code. |
| | XI | Arms | Rep., in part, XI of 1882. Printed, General Acts. |
| | XII | Amending Punjab Laws Act (IV of 1872). | Rep., in part, X of 1879. Printed, Punjab Code. |
| | XIII | <i>Distressed Seamen</i> | <i>Rep., V of 1883.</i> |
| | XIV | Assimilation of powers (North-Western Provinces and Oudh). | Rep., in part, XIII of 1879 ; XXII of 1886. Printed, N.-W. Provinces Code ; Oudh Code. |
| | XV | Hussainabad Endowment | Not reprinted. |
| | XVI | <i>Amending Act IX of 1878 (Native Press).</i> | <i>Rep., III of 1882.</i> |
| | XVII | Ferries (Northern India) | Amended, III of 1886 ; (N.-W. P. and Oudh), XIV of 1883, ss. 64 and 65 ; (Punjab), XX of 1883, ss. 78 and 79 ; (C. P.), I of 1883, ss. 43 and 44. Printed, N.-W. Provinces Code ; Punjab Code ; Oudh Code ; Central Provinces Code ; Ajmere Code ; Assam Supplement to Bengal Code. |
| | XVIII | <i>Amending Code of Civil Procedure (Act X of 1877).</i> | <i>Rep., XII of 1879.</i> |
| 1879 | I | Stamps | Rep., in part, V of 1883 ; and amended, IX of 1884, s. 10. Amended, I of 1888. Printed, General Acts. |
| | II | Amending Act XX of 1875 (Central Provinces Laws). | Printed, C. Provinces Code. |
| | III | Destruction of Records | Amend., (Burma) XVIII of 1888, s. 7 ; Printed, General Acts. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|---|
| 1879 | IV | Railways | { Amended, IV of 1883; XI of 1886, s. 49. Printed, General Acts. |
| | V | Amending Act XI of 1876 (Presidency Banks). | Printed, General Acts. |
| | I | Preservation of Elephants | { Amended, II of 1883. Printed, General Acts. |
| | VII | <i>Additional Financial Commissioner, Punjab.</i> | <i>Spent.</i> |
| | VIII | Land-revenue (North-West- ern Provinces.) | { Rep., in part, XIII of 1832. Printed, N.-W. Provinces Code. |
| | IX* | Coast-lights (Burma) . | { Printed, Madras Code; Bombay Code; Bengal Code; Burma Code. |
| | X | <i>Takṣhān (Northern India)</i> | { Rep. (except as regards the reco- very of advances and interest thereon), XII of 1884. |
| | XI | Local Authorities Loans | { Amended, XV of 1885. Printed, General Acts. |
| | XII | Amending Code of Civil Procedure and Registration and Limitation Acts (Acts X, III and XV of 1877). | { Rep., in part, XIV of 1882. Printed, General Acts. |
| | XIII | Civil Courts (Oudh) . . . | Printed, Oudh Code. |
| | XIV | Hackney Carriages . . . | { Printed, N.-W. Provinces Code; Punjab Code; Oudh Code; C. Provinces Code; Burma Code; Coorg Code; Ajmere Code; Assam Supplement to Ben- gal Code. |
| | XV | Port Commissioners (Rangoon) | Printed, Burma Code. |
| | XVI | Transport of Salt by Sea | { Printed, Madras Code; Bombay Code. |
| | XVII | Dekkhan Agriculturists' Re- lief. | { Rep., in part, and amended, XXIII of 1881 and XXII of 1882. Printed, Bombay Code. |
| | XVIII | Legal Practitioners . . . | { Amended, IX of 1884. Printed, General Acts. |

*Act IX of 1879 is also in force in the Andaman and Nicobar Islands, but no Local Code has been issued for those Islands.

314 *Chronological Table of Acts of the Governor General in Council.*

| Year | Number. | Subject or short title. | Repeals, amendments and references. |
|------|-----------------|--|--|
| 1879 | XIX | Raipur and Khattra Laws . | Printed, Bengal Code. |
| | XX ^a | Glanders and Farcy . | Rep., in part and extended to Bombay, XXIV of 1886. Printed, Bombay Code; *N.-W. Provinces Code; Punjab Code; Oudh Code; C. Provinces Code; Burma Code; Coorg Code; Ajmere Code; Assam Supplement to Bengal Code. |
| | XXI | Foreign Jurisdiction and Extradition. | Rep., in part, X of 1882. Printed, General Acts. |
| 1880 | I | Religious Societies . | Printed, General Acts. |
| | II | District Cesses and Rural Police (Lower Burma). | Rep. in part and amended, III of 1889, ss. 1 (6) and 4 (when and where notified). Printed, Burma Code. |
| | III | Cantonments . . | Rep., in part, VIII of 1887. Printed, General Acts. |
| | IV | Portuguese Treaty . | Printed, General Acts. |
| | V | Boundaries (Lower Burma) | Printed, Burma Code. |
| | VI | <i>License Acts Amendment</i> . | Rep., II of 1886. |
| | VII | Merchant Shipping . | Rep., in part, XIV of 1882. Printed, General Acts. |
| | VIII | <i>Correcting clerical error in Limitation Act (XV of 1877).</i> | Rep., X of 1888. |
| | IX | Bombay Civil Courts Act Amendment. | Printed, Bombay Code. |
| | X | <i>Multan District Laws</i> . | Rep., XIII of 1883. |
| | XI ^b | Burma Courts Act (Additional Recorder of Rangoon). | Printed, Burma Code. |
| | XII | Kázis | Printed, General Acts. |
| | XIII | Vaccination . . | Printed, N.-W. Provinces Code; Punjab Code; Oudh Code; C. Provinces Code; Burma Code; Ajmere Code; |

^a Act XX of 1879 is also in force in the Andaman and Nicobar Islands, but no Local Code has been issued for these Islands.

^b This Act will be repealed by the new Lower Burma Courts Bill now before the Council of the Governor General.

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|---|
| 1880 | XIII | Vaccination— <i>contd.</i> | { Printed, Coorg Code ; Assam Supplement to Ben- gal Code. |
| | XIV | <i>Census</i> | |
| | XV | Revenue Jurisdiction (Bom- bay). { | Rep., in part, XII of 1884. Printed, Bombay Code. |
| | XVI | Madras Irrigation and Canal Company. | Printed, Madras Code. |
| 1881 | I | Táj Mahál's Pension | Not reprinted. |
| | II | Pegu and Sittang Canal | Printed, Burma Code. |
| | III | <i>Indian Securities</i> | <i>Rep., XIII of 1886.</i> |
| | IV | Port-dues (Madras) | Printed, Madras Code. |
| | V | Probate and Administration | Printed, General Acts. |
| | VI | District Delegates | Printed, General Acts. |
| | VII | Amending Bengal Cess Act (Ben. Act IX of 1880). | Printed, Bengal Code. |
| | VIII | Petroleum | { Rep., XII of 1886 (when and where notified). Printed, General Acts. |
| | IX | Administrator General | |
| | X | Coroners | { Rep., in part, X of 1882. Printed, General Acts ; Madras Code. |
| | XI | Municipal Taxation | |
| | XII | Rent (North-Western Prov- inces). { | Rep., in part, and amended, XIV of 1886. Amended, VI of 1888, s. 9. Printed, N.-W. Provinces Code. |
| | XIII | Fort William | Printed, Bengal Code. |
| | XIV | Benares Family Domains | Printed, N.-W. Provinces Code. |
| | XV | Factories | Printed, General Acts. |
| | XVI | Obstructions in Fairways | Printed, General Acts. |
| | XVII | Portuguese Convention | Printed, General Acts. |
| | XVIII | Land-revenue (Central Prov- inces). | Printed, C. Provinces Code. |
| | XIX | Forests (Lower Burma) | Printed, Burma Code. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|---|--|
| 1881 | XX | Incumbered Estates (Sindh) { | Amended, XI of 1884. Printed, Bombay Code. |
| | XXI | Incumbered Estates (Broach and Kaira). | Printed, Bombay Code. |
| | XXII | Excise (Northern India, Lower Burma and Coorg). | Amended, VI of 1885; IX of 1885; II of 1887, ss. 5 & 6. Amended (Burma), XVIII of 1888, s. 7. |
| | | | Printed, N. W. Provinces Code; Punjab Code; Oudh Code; C. Provinces Code; Burma Code; Coorg Code; Ajmere Code. |
| | XXIII | Pekkhani Agriculturists' Relief | Printed, Bombay Code. |
| | XXIV | Punjab Laws Amendment . | Printed, Punjab Code. |
| | XXV | Bánki Laws | Printed, Bengal Code. |
| | XXVI | Negotiable Instruments { | Rep., in part, and amended, II of 1885. Printed, General Acts. |
| | 1882 | I Inland Emigration . { | Printed, Bengal Code; N.-W. Provinces Code; Oudh Code. |
| | | II Trusts | Printed, General Acts. |
| | | III Seditious Publications . . | Printed, General Acts. |
| | | IV Transfer of Property . { | Amended, III of 1885. Printed, General Acts. |
| | | V Easements { | Printed, Madras Code; C. Provinces Code; Coorg Code. |
| | | VI Companies { | Amended, VI of 1887. Printed, General Acts. |
| | | VII Powers-of attorney . . | Printed, General Acts. |
| | | VIII Penal Code Amendment . | Printed, General Acts. |
| | | IX Prisoners Act (V of 1871) Amendment. | Printed, General Acts. |
| | | X Criminal Procedure . { | Rep., in part, and amended, III of 1884. Rep., in part (locally), V of 1876, and s. 3 of the Code. Extended to Upper Burma with mo- difications, Reg. VII of 1886. Amended, X of 1886; V of 1887; |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|-----------------------------------|--|
| 1882 | X | Criminal Procedure— <i>contd.</i> | Amended, XIV of 1887, s. 78; I of 1889, s. 7; Andaman and Nicobar Islands), Reg. III of 1876, s. 13, as amended by Reg. I of 1884, s. 3; (Assam), Reg. II of 1883; (Punjab Frontier Dist.), Reg. IV of 1887, ss. 9, 37 (2) & 46; (Upper Burma), Reg. XIV of 1887, s. 4. (locally, Lower Burma), III of 1889, s. 5 (when and where notified); (locally, Madras), V of 1889, s. 4; Printed, General Acts. |
| | XI | Tariff | Rep., in part, IX of 1885; Amended, II of 1887, ss. 7, 8 & 9; II of 1888. Printed, General Acts. |
| | XII | Salt | Amended, XX of 1884. Printed, General Acts. |
| | XIII | Kánúngos and Patwáris | Printed, N.-W. Provinces Code; Oudh Code. |
| | XIV | Civil Procedure | Rep., in part, XIV of 1885; IV of 1886; X of 1886, s. 24 (2); VIII of 1887, s. 2. Rep., in part, and amended, VII of 1888, ss. 3 to 64. Rep., in part, and amended (Ajmete-Merwára), Reg. I of 1877, ss. 2 and 28, and s. 3 of the Code; (Central Provs.), XX of 1875, ss. 11 and 12 (as added by II of 1879, s. 2), and s. 3 of the Code (Andaman and Nicobar Islands), Reg. III of 1876, s. 14 (as amended by Reg. I of 1884, s. 4). Amended, XV of 1882, s. 3, and s. 3 of the Code; VII of 1887, s. 11; VI of 1888, ss. 2 to 8; X of 1888, ss. 1 and 3; Amended (Oudh), XXIII of 1876, ss. 18 to 20, and s. 3 of the Code. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|---------|--|--|
| 1882 | XIV | Civil Procedure— <i>contd.</i> | Amended (in places to which the Act extends), IV of 1882, s. 87, and s. 3 of the Code; (Punjab), XVIII of 1884, s. 70 (as modified by XVI of 1887, s. 3); (Coorg), Reg. II of 1881, ss. 12A and 12B, as added by Reg. I of 1885, s. 9. Printed, General Acts. |
| | XV | Presidency Small Cause Courts. | Amended, X of 1888. Printed, General Acts. |
| | XVI | Incumbered Estates (Jhānsi). | Printed, N.-W. Provinces Code. |
| | XVII | Ports and Port-dues (amending Act XII of 1875). | Printed, General Acts. |
| | XVIII | Steam-boilers and Prime-movers (Burma). | Amended, I of 1885. Printed, Burma Code. |
| | XIX | Punjab University. | Printed, Punjab Code. |
| | XX | Paper Currency. | Printed, General Acts. |
| | XXI | Madras Forest Act Confirmation. | Printed, Madras Code. |
| | XXII | Dekkhan Agriculturists' Relief | Printed, Bombay Code. |
| 1883 | I | Local Self-government (Central Provinces). | Printed, C. Provinces Code. |
| | II | Amending Act VI of 1879 (Elephants' Preservation). | Printed, General Acts. |
| | III | <i>Repealing Act XXVII of 1854 (Nāzim of Bengal).</i> | <i>Spent.</i> |
| | IV | Amending Act IV of 1879 (Railways). | Printed, General Acts. |
| | V | Merchant Shipping. | Printed, General Acts. |
| | VI | Amending Act XII of 1859 (Pilots). | Printed, Bengal Code. |
| | VII | <i>Repealing Lower Burma Labour Law (Act III of 1876).</i> | <i>Spent.</i> |
| | VIII | Little Cocos and Prepalis Islands Laws. | Printed, Burma Code. |

| Year | Number. | Subject or short title. | Repeals, amendments and references. |
|------|---------|---|--|
| 1883 | IX | Tenancy (Central Provinces) . | Printed, C. Provinces Code. |
| | X | Bikrama Singh's Estates . | Not reprinted. |
| | XI | Amending Act XII of 1875 (Reduction of Port-dues, Bombay). | Printed, General Acts. |
| | XII | Pilots (Lower Burma) . . | Printed, Burma Code. |
| | XIII | Indus Valley State Railway Lands. | Printed, Punjab Code. |
| | XIV | Local Boards (North-Western { Provinces and Oudh). | Printed, N. W.-Provinces Code; Oudh Code. |
| | XV | Municipalities (North-West- { ern Provinces and Oudh). | Printed, N.-W. Province Code; Oudh Code. |
| | XVI | <i>Protection of Inventions</i> . | <i>Rep., V of 1888.</i> |
| | XVII | <i>Native Passenger Ships</i> (amending Act VIII of 1876). | <i>Rep., X of 1887.</i> |
| | XVIII | Amending Cattle-trespass Act (I of 1871). | Printed, General Acts. |
| | XIX | Land Improvement Loans { | S. 12 (2) repealed (by implication), VII of 1886, s. 3 (2). Printed, General Acts. |
| | XX | District Boards (Punjab) . | Printed, Punjab Code. |
| | XXI | Emigration . . . { | Amended, XXI of 1884. Printed, General Acts. |
| | XXII | Tramways (Rangoon) . . | Printed, Burma Code. |
| 1884 | I | Honorary Degrees, Calcutta, Madras and Bombay Univer- sities. | Printed, General Acts. |
| | II | Partition-deeds (Madras) . | Printed, Madras Code. |
| | III | Criminal Procedure Code (Act X of 1882) Amendment. | Printed, General Acts. |
| | IV | Explosives | Printed, General Acts. |
| | V | Amending Chutiá Nágpur Encumbered Estates Act (VI of 1876). | Printed, Rengal Code. |
| | VI | Inland Steam-vessels . . | Printed General Acts. |
| | VII | Steam-ships . . . { | <i>Rep., in part, X of 1887.</i> Printed, General Acts. |

| Year. | Number. | Subject or short title. | Repeals, amendments and references. |
|-------|----------------|--|--|
| 1884 | VIII | <i>Repealing Ben. Reg. XIX of 1810 in the North-Western Provinces.</i> | <i>Spent.</i> |
| | IX | Legal Practitioners (amending Acts I and XVIII of 1879). | Printed, General Acts. |
| | X ^a | Burma Courts (amending Act XVII of 1875). | Printed, Burma Code. |
| | XI | Incumbered Estates (Sindh) (amending Act XX of 1881). | Printed, Bombay Code. |
| | XII | Agriculturists' Loans . . . | Printed, General Acts. |
| | XIII | Municipalities (Punjab) . . | Printed, Punjab Code. |
| | XIV | Validation of Settlement-officers' Decisions (Punjab). | Printed, Punjab Code. |
| | XV | Validation of Marriage Licenses | Printed, General Acts. |
| | XVI | Gaming (Burma) | Printed, Burma Code. |
| | XVII | Municipalities (Burma) . . | { Amended, XI of 1885. Printed, Burma Code. |
| | XVIII | Courts (Punjab) | { Rep, in part, VII of 1887, s 10; XVI of 1887; XVII of 1887; and amended, XIII of 1888. Printed, Punjab Code. |
| | XIX | Water-works (Rangoon) . . | Printed, Burma Code. |
| | XX | Amending Salt Act (XII of 1882). | Printed, General Acts. |
| | XXI | Straits Settlements Emigration | Printed, General Acts. |

^a This Act will be repealed by the new Lower Burma Courts Bill now before the Council of the Governor General.

